UNIVERSITY OF PENNSYLVANIA

THE RELATION OF TARIFF AUTONOMY TO THE POLITICAL SITUATION IN CHINA

CLAUDE ALBERT BUSS

A THESIS

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

PHILADELPHIA
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PREFACE

Newsflashes concerning Chinese tariffs are difficult to appreciate unless they are interpreted with a knowledge of the political situation in that distant land. To afford that knowledge and to show the relation of tariff autonomy to each element therein is the purpose of this study.

Chapter 1 opens to us some fundamental ideas of the size and importance of the country with which we are dealing and Chapter 2 clarifies the implications of the expression "Tariff Autonomy". The economic aspects of this question have been purposely sacrificed to its political features.

Assuming the chaos in China presents three main groups of component features, we show the relation of tariff autonomy to each of these elements:

1. The organization of the Chinese Government.
2. The interests of the foreign powers in China.
3. The emergence and growth of nationalism.

Autonomy seems necessary to the establishment of an efficient government; it is but one of a group of foreign interests and can not be divorced from the system of which it is the base. Finally, it is the heart of the attacks of the Nationalists. Thus it is a vital part of each phase of the political situation.

The writer is grateful to the Professors at the University of Pennsylvania who have guided him in his graduate studies. He is particularly indebted to Mr. Roland S. Morris, the former Ambassador to Japan; to Dr. James T. Young, the head of the Political Science Department, and to Dr. John G. Hervey, a fellow instructor in the Wharton School. It was their sympathetic advice and encouragement which made possible the completion of this study.

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I

Introduction

China is the home of one-quarter of the world's population. Its area is estimated at four million square miles or more than the United States, Great Britain, France, Germany, Italy, Belgium, Norway, Spain and Japan combined.[1] More than one-half of this territory lies on the north and westward, extending into Central Asia and is of little immediate value although it is possessed of vast potentialities. The China with which the world is concerned at present consists of approximately 1,896,500 square miles "comprised in the twenty-one provinces of China proper, stretching as a triangular shaped area from Siberia to the tropics."[2]

In this triangular shaped area, there dwell 485 millions of people or very nearly one-fourth of the entire population of the world.[3]

The people are unevenly distributed. They are most intensively packed along the east coast and along the rivers while the interior is but sparsely settled. The population averages 182 per square mile but ranges from 875 in Kiangsu, 600 in Chekiang, 550 in Shantung to an opposite extreme of 67 in Hunan, 61 in Manchuria and 47 in Kansu.[4] A survey of the most congested parts of Shantung reveals the not unique situation that "one square mile of soil is supporting 3072 persons, 256 cows, 256 donkeys and 512 pigs."[5] On the other hand, the plains of

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[1] China proper.....1,896,500
Mongolia.....1,376,953
Ch. Turkestan..... 550,579
Tibet..... 463,320

Total.....4,278,352

Figures *China Year Book, 1926*, page 1.

[2] American Relations with China: A Report of the Conference held at Johns Hopkins University, Baltimore, 1925. When this work is referred to again it will be quoted as Baltimore Conference. Preliminary paper by Charles Hodges, p. 70.

[3] *China Report of the Post Office*, 1925, p. 44.

[4] *China: An Economic Survey.* Conducted by the American Bankers' Association, p. 1.

[5] Hodges. *Op. cit.*, p. 71.

Inner Mongolia are as thinly populated as the prairies of America before the advent of the railroad.

It is estimated that eighty-five per cent of China's population is engaged in agricultural pursuits and the percentage of illiteracy is slightly less than ninety per cent. The agriculturalists have remained static, unaffected or changed by modern influences for over three thousand years. New movements, tendencies and reactions in China represent the immediate interests of but ten per cent of the entire population. "The tremendous significance of this 360,000,000 passive population acting as a check on things new and different is that it is the foundation of that stolid indifference and inherent stability so often quoted with regards to Chinese characteristics."[6]

Agricultural resources in China are so rich and varied that it could, under normal conditions, and with a good elementary distributing system, be self-supporting. Rice is the staple article of food for the Chinese in the southern and central provinces. In the north wheat, millet and other grains take the place of rice. Soya beans and their by-products, tea, silk, cotton, vegetables for oils, tobacco, sugar, medicinal herbs are grown in quantities. It is chiefly from these articles that the Chinese gain their living. Goats and cattle are found everywhere. Wool, skins, hides, furs, and bristles have become important articles of export as well as of home consumption. Pastoral and agricultural products form the bulk of China's wealth.

The mineral resources, particularly coal and iron, have been greatly overestimated. The coal reserve is known to be about forty-five billion tons or about one-eighth of that of the United States or one-third of that of Great Britain.[7] However in 1920 the actual coal output of the United States was 650 million tons as against China's 25 million tons. Much of China's coal is non-coking, much is inaccessible, and much is so deep and of so low a grade that its mining is out of the question. Iron ore reserves

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[6] *China: An Economic Survey*, p. 2. Practically all authorities hold opinions to this same effect.

[7] Six billion tons anthracite and 17 billion tons bituminous if only depths of 1000 meters and seams of at least a meter included. *China Year Book 1923*, p. 113.

have been estimated by the Geological Survey as totalling one billion tons.[8] This means that there are about one and a quarter tons of metallic iron per head. The meagerness of such a supply as this is appreciated when one remembers that the United States consumes one-quarter ton per head annually.[9]

China has minerals other than coal and iron. It possesses about fifty per cent of the world's supply of antimony. In the production of tin it ranks next to the Malay States and Bolivia. During the war there were heavy shipments of tungsten, molybdenum, and manganese (used in connection with steel manufacture) but the demand for these has decreased so much that it is not profitable to work the mines. Lead, zinc, and copper exist on so small a scale that they cannot be mined under present conditions. Prospects for oil have been doomed to failure. Silver, so important to the economic life of the Chinese people, because it is their medium of exchange, is entirely a matter of import.

In commenting on the value of Chinese resources, Mr. Rodney Gilbert declares, "China is a country rich in territory and man power without much else. Land and fisheries, men and their tireless efforts to make something out of nothing are her assets. . . . Her vast natural resources are very much a myth. In proportion to her great area and population China's reserves of timber, coal, iron and copper are almost trifling."[10]

The figures of the distinguished Japanese financial expert, Baron Takahashi, present a more definite statement on the prewar wealth of China. It ranks fifth among the nations of the world.[11] The United States, England, Germany, and France

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[8] Hodges. *Op. Cit.*, p. 73. *China Year Book, 1926*, p. 112. American *Bankers' Economic Survey*, p. 4. The figures vary slightly but they indicate the approximate amount. They justify the conclusion that the resources are anything but unlimited.

[9] *China Year Book, 1923*, p. 121.

[10] In *Fortnightly Review*, November, 1926, pp. 604, 605.

[11] Hodges. *Op. cit.*, p. 72, quotes the Baron's report.

United States	$107,570,709,120
England	67,054,821,528
Germany	62,316,226,032
France	53,010,849,024
China	52,851,885,410
Russia	49,721,300,562
Italy	19,505,664,000
Japan	12,519,914,008

alone surpass it. However some of the optimism which his statement at first suggests must disappear when one considers the amount ($43 billion) of land value that is included in the total ($52 billion).[12] On a per capita basis, China can boast of but 107 dollars as compared with nearly 2000 dollars of the United States and 1500 dollars of Great Britain. Thus its comparative poverty is manifest.[13]

These preliminary remarks form a background that is necessary for the appreciation of the problem which is being attacked. Keeping these facts in mind, we pass to the consideration of the tariff autonomy and its relation to the political situation as it exists at the present time.

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[12] Land	$43,344,441,562
Houses, godowns and other buildings	2,766,611,112
Furniture and art goods	863,854,106
Cattle and other animals	827,219,905
Minerals	249,631,404
Marine products	124,815,702
Salt	709,077,235
Electric, gas and waterworks	3,212,100
Ships and vehicles	45,806,787
Gold and silver	731,051,550
Commercial companied and banks	35,781,300
Merchandise	2,103,664,408
Railways, telegraphs and telephones	44,795,100
Libraries	5,645,128
Rivers and harbors	996,278,008
Total	$52,851,885,409

Quoted in Hodge's paper, p. 72.

[13] The figures for the United States are as of 1912. In 1922 the wealth of the United States was estimated at $2,918 per capita. The figures are from *The Statistical Abstract of the United States, 1925*, p. 283.

II

The Agitation for Tariff Autonomy

As one examines the political situation in China, he can not fail to note the emphasis the Chinese place on their plea for tariff autonomy. But there is a striking lack of clear analysis of their objections to the present system and of definite presentation of their desires. It is the purpose of this chapter to review the reasons why the Chinese lost the control of their customs, what the foreign administration has accomplished, why the Powers wish to continue it, the Chinese objections to the foreign control and exactly what do the Chinese want when they demand customs autonomy.

Any Chinese can tell you that the "conventional tariff was levied as a result of military defeat"[1] but that does not paint an accurate picture. It will be pointed out that, under the "hong" system, the hong in control of the port levied any tariff that it could extract. The foreign merchants protested against this irregular secret levy and forced the Chinese to permit the British to "agree" to a published regular tariff schedule. Other nations secured the same right to "agree" and thus China lost the right to levy its own tariff rates.

Then, how did the foreigners secure a part in the actual collection of the tariff duties? As a result of the Tai ping Rebellion, the Chinese Imperial Government was utterly helpless in the matter of collecting foreign tariff dues. In Shanghai, the consuls, of their own volition, undertook to collect the tariff dues from their respective nationals. After the rebellion was put down, the Shanghai taotai, "amazed at the speed, ease, and amount of collection by foreigners, agreed to select and appoint foreign persons to aid him in the collection of duties. That was in 1854 and applied solely to Shanghai.

Since that time, there has been organized an Inspectorate General of the Customs which is in control of collecting customs

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[1] See, C. S.: *Chinese Question*, p. 13. Ms. in Columbia University Library.

in practically every important port. It is administered by foreigners, appointed by the Chinese Government. The personnel of the foreign staff is largely determined by international agreements. For example, Article 7 of the Anglo German Loan agreement provides that the Inspector General "shall be British as long as British trade with China is predominant."[2] The tariff Commissioners at various ports are usually of the nationality whose interests are paramount at the port. However, the Chinese Government is theoretically sovereign over the Customs Administration and it has agreed to foreign control, not only because it had to, but because in the time of emergency, it has portrayed its inability to administer and collect the customs.

What has the foreign customs administration accomplished? Primarily it has collected the customs and has seen to it that the funds reached the places for which they were intended. "Every intelligent Chinese know that the financial stability and salvation of China for years has rested largely on the foreign control of the customs. This service has been a model from point of view of uprightness in its administration. Chinese credits have rested largely on the tariff."[3] The only Chinese bonds which can command a price at any where near par are those which are secured on the customs revenues. In spite of troubulous times of the worst kind, these revenues have been regularly collected and regularly dispensed.

Aside from collecting and dispensing revenues, the Customs Administration has a record of enviable accomplishments. It has surveyed rivers, harbors and coastal waters; it has erected lighthouses for the protection of navigation; it has published trade statistics; it has established the Chinese Post Office; it has instituted language schools, and protected public health in the ports."[4] Thus the foreign administration has done all it has been charged with doing and has done vastly more in its service for the betterment of China.

Considering these things, it is manifest why the powers want to retain the control over customs administration. They are

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[2] MacMurray, 1898-2, p. 105.
[3] Hodges: *Baltimore Conference*, p. 82.
[4] Lowrie, S. G.: *Baltimore Conference*, p. 45.

willing to give up their power to fix the rates of tariff as is evidenced by the resolution of the 1925 Pekin Conference[5] but they all desire to see the continuance of a foreign element in the collection of any tariff dues the Chinese themselves might fix. The first reason for desiring the continuance of the foreign administration of the customs is that its good work might be continued.

The efficiency and trustworthiness of this administration has been proven, while that of Chinese administration is not so certain. Mr. Strawn feels: "At present there is no Chinese or group of Chinese however strong and well intentioned they might be, who could withstand the importunities of their families and their political friends, or resist the bayonets of the war lords if the customs funds were taken from the control of the foreign Inspector General and placed in the hands of Chinese officials. If and when that should occur, considering conditions in China as they now exist, the security back of the loans, domestic and foreign, will be gone and the creditors of China as they now rely upon the customs for protection will be in the same hopeless situation as are China's unsecured creditors".[6]

This suggests the second reason why the powers desire the retention of the Customs Administration. By directing the funds into proper channels, it keeps money out of the hands of the regional government. Each tuchun controls the surpluses in his region and if he could control all the revenues, it would enable him to wage much more bitter warfare. If once the foreigner withdraws, it is certain that the war lords must commandeer the revenues, in spite of the damage to China's credit.

There is no doubt that this foreign control is a weapon in the hands of the political agitators. The continuance of this system strengthens them in their efforts to arouse the patriotic spirit of the Chinese. In spite of this political objection, the powers feel that it is an economic necessity to the well-being of China to retain the Customs Administration.

It is clear that the foreign nations center their desires about the continuation of the administration of the tariff rather than

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[5] See below.

[6] Silas H. Strawn. Ms. of address, "China Today," p. 6. Delivered before International Chamber of Commerce, Colorado Springs, December 9, 1926.

the continuation of the privilege of fixing tariff rates by treaties. They would like to continue this latter privilege for they can adjust the schedule in such a manner as to meet their own needs. Thus Japan, for example, can insist on keeping a low tariff on cotton goods. That enables the Japanese mills to work full time, and to sell their exports in the Chinese market in competition with Chinese goods. The other powers favor the continuation of the treaty made tariff schedule but they can not insist upon it too strenuously because of its obvious disadvantage to China.

On the other hand, the Chinese center their objections against the treaty made tariff schedule. This is their most advantageous point of attack because they are more clearly on the side of justice.

First, they object to the supposed right of the foreign nations to regulate China's tariff by treaty, because it is an infringement of China's sovereign power.[7] "The right to regulate the tariff rate is a most important right, to guard the integrity of which no nation can be too zealous; not only because it constitutes a part of the power of taxation, but also the tariff rate has the power to control the direction of the economic development of the country.[8] Some countries exercise their sovereign right over the tariff rate by means of statutes passed by the legislature. Others have a conventional tariff, or a rate that is adjusted by means of a treaty with mutual advantages."

China neither controls her tariff by a mutually advantageous convention or legislature. China has had to agree to the wishes of the alien in her tariff rates and has had no opportunity to bargain for mutual concessions. China has no more to offer than what has been taken from her. Her door is open to the rest of the world but she has had to pay high duties on goods to other countries. "For instance, Chinese tea into the United Kingdom had to pay twenty-five per cent. . . tobacco to Japan 350 per cent . . . and manufactured silk into the United States, thirty-five to sixty per cent."[9]

Nor could China bargain for reciprocity agreements with individual nations. When China granted a privilege to one

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[7] Dr. Koo: *Senate Document*, p. 469, November 23, 1921.
[8] Hsia: *Studies in Chinese Diplomacy*, p. 204.
[9] Koo: *China Year Book, 1923*, p. 1073.

nation, the others reaped the advantage of it because of the operation of the favored nation clause. Thus China objects to the foreign treaty tariff because it violates her sovereignty.

Secondly, the Chinese object because the tariff rules have granted special privileges to foreigners. On the payment of a two and a half per cent ad valorem tax (in addition to the five per cent import tax), the foreigner receives a transit pass. This pass entitles his goods to free passage through the interior. It exempts him from the 10-18 per cent likin assessments that the Chinese merchants have to pay (unless he buys the name of some foreigner to secure a transit pass). There has been an extra rebate of one-third to one-quarter the regular maritime duties allowed on goods transported across the land frontiers of Manchuria, Mongolia, Eastern Turkestan, Yunnan and Kwangsi. Foreign merchants within the areas reserved for foreign residence at the treaty ports are exempted from Chinese local taxation. The alien has the right to participate in coastwise trade and navigation inland while in other countries these privileges are reserved for nationals. What is worse they engage in this trade subject to their own regulations and are protected by the system of exterritorial courts.[10]

Thirdly, the tariff is not flexible. It cannot be adjusted and revised at will, as can the tariff of the United States. From 1858 to 1902 there was absolutely no change in the tariff schedule of China and it required six years of negotiation before 1918 to revise the old 1902 schedule. To raise the tariff rates requires the consent of every treaty power and this has proved next to impossible to secure. Now, the Chinese argue, industrial necessities vary in short periods of time and China must have the power to adjust its tariff to these variations. The rigidity of the tariff has worked to China's detriment.

The tariff schedule itself is objectionable. The rates are not scientific. A flat five per cent on all goods does not permit of an economic policy which will favor some goods. For example, there is no distinction between the rates on manufactured goods and raw materials. If China could put a higher tax on raw

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[10] See C. S.: *Op. cit.*, p. 13. Chu: *Tariff History*, p. 56.

materials, it could stimulate production of its own raw materials, while if it could reduce the rates on machinery, it could encourage their importation. Thus it could hasten its own economic progress.

There is no distinction between the rates on luxuries and those on necessities. The former can pay a higher duty than the latter for it is easier for the importer to shift the tax on luxuries to the consumers. Other nations have higher rates on luxuries than on necessities and the Chinese feel they should have them.[11]

Again export duties are not scientific. Most nations have abandoned them unless they afford an especially valuable source of revenue or protection. Chile's export tax on nitrate and the Straits Settlements export tax on rubber are illustrations. But China has no specific resource to conserve by means of an export tax. Its export taxes are simply means of revenue, the desirability of which is open to question.

Likewise the Chinese feel the inland navigation tariff and the coastwise duties are not for China's best interest and would have them eliminated from the tariff schedule.[12]

Another protest is that the five per cent flat rate on imports is too low. It is not an effective five per cent but merely a nominal one. The five per cent is based on values of two or three years before and as prices go up, the nominal five per cent becomes an effective three or four per cent. It is manifest that if prices should fall, the nominal five per cent would mean an effective increase but under such circumstances it would be to the interest of the powers to revise the tariff.

Finally, the tariff is too low for adequate revenue purposes. If the tariff were increased the Chinese could secure a greater proportion of its total revenues therefrom. Such an argument as this, under existing conditions of civil war, is of course, irrelative. It will be shown how in war time, the tariff provides about one-half of China's revenues. But in 1913, China's tariffs produced six per cent of her total revenues, while in that same year Germany secured forty-five per cent of her

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[11] Koo: *Washington Conference*, p. 2.
[12] Chu: *Op. cit.*, p. 70.

total income from the customs; United States thirty-nine per cent, France twenty per cent and Great Britain twenty-two per cent.[13] From this, it is concluded that tariff rates should be increased to provide more revenues. On this conclusion the Chinese have based their demands for surtaxes and will continue to base their agitation for higher rates.

Having pointed out the Chinese objections, it is necessary to make clear just what the Chinese want. They want autonomy. But still what is autonomy? "It is the sovereign power to shift tariff rates in response to her fiscal needs and to satisfy her fast growing commercial and industrial requirements."[14]

They feel they have a legal, as well as a practical right to autonomy. Oppenheim declares "when the existence or necessary development of a state stands in an unavoidable conflict with such states treaty obligations, the latter must give way, for self-preservation and development in accordance with growth are the necessary requirements of the nation and the primary duties of every state."[15]

President Wilson, in the third of his fourteen points advocated the removal of economic barriers and establishment of equal trade conditions. Compulsory treaty tariff is such an economic barrier.

Two inaccuracies are often associated with tariff autonomy. The first is that autonomy means abandonment of the foreign administration. This is not necessarily true. Dr. Kuo declared that "tariff autonomy does not at all involve the question of Maritime Customs. In fact the Chinese Government is even willing to go farther in securing foreign experts and foreign participation in government affairs . . . China wants the right to control rates".[16] Here he reaffirmed the statement of Dr. Koo at the Limitation of Armament Conference that the Chinese Government has no intention to effect any change which may disturb the present administration of the Chinese Maritime

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[13] See C. S.: *Op. cit.*, p. 18.
[14] *Ibid.*, p. 25.
[15] *International Law*, Vol. I, p. 550.
[16] *Baltimore Conference*, p. 88.

Customs.[17] Of course, the Chinese desire to make the administration a national institution but they intend to displace the foreigners only as they demonstrate the ability to maintain the efficiency of the service.[18]

Secondly, it does not follow that autonomy will mean a wholesale increase in tariff rates. "China is not so foolish as to pursue the suicidal policy of destroying her national trade by a high tariff wall.[19] It does not care to levy prohibitive duties and drive out foreign goods". Many times autonomy and high tariff are associated but they do not always go hand in hand. Autonomy might mean higher tariffs on some things but it will mean lower tariffs on others.

China wants tariff autonomy so that it can formulate a fiscal policy that will meet the needs of the Chinese people. It wants to abolish the privileges that accrue to the foreigner and substitute a schedule that will benefit the Chinese. It wants to raise more revenue by import tariff so it can abolish likin, export and coastwise duties. But more important than raising more revenue is to stimulate trade. The Chinese have the problem of accomplishing both without injuring either.

It is doubtful if a general increase of tariff rates would solve the problem. There are arguments in favor of such a policy for China. It might tend to secure national unity by making Chinese less dependent on outside sources. It would stifle foreign competition and stimulate infant industries. It might indeed be just the agency to overcome the Oriental inertia.

But on the other hand, there are arguments against a general protective policy for China. It would restrict the amounts of foreign capital invested in China's industrial growth and China can use all the capital obtainable. Higher tariff usually means higher costs to the consumer and China can not afford to pay

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[17] *Senate Document*, p. 468.

[18] Of course, there is the danger that the anti-foreign sentiment might work to drive out the foreign administration. That it is to their interest to maintain the service is admitted.

[19] See *Op. cit.*, p. 25.

these costs. It will help more to stimulate China's demand[20] rather than to restrict her supply. More imports cause more desires and more desires are bound to increase the Chinese standard of living. China needs so many other things more than she needs protection. Foreign capital, foreign skilled labor, and increased general knowledge will develop China's resources in much quicker time. Protection will benefit the agriculturalists but indirectly.

It seems pertinent that Japan has prospered on a general policy of revenue tariff and China must likewise be cautious, lest her transport, communication, exchange, currency and banking pass from bad to worse.

All this does not mean that China should not increase her tariffs at all. Reasonable increases are expedient. Just what "reasonable" means, the Chinese will have to determine by a process of trial and error. But there are some considerations which point to the feasibility of a slightly higher tariff than that now existing.

In the first place increased protective duties will not affect the demand of about fifty per cent of China's imports. Mineral oils, kerosene, cereals, sugar, cotton and tobacco are raw materials and foods that are not obtainable in quantity in China at the present time. China will buy these regardless of price, unless the price becomes so exorbitant that she will sacrifice them rather than consume them. Dyes and machinery constitute six per cent of the total imports, and China, in spite of a higher tariff, will purchase them to develop her industries. Then iron, steel and paper are products which China can not make economically. Of the remaining imports the decrease of all but cotton and cigarettes would hurt the Chinese more than the foreign exporters involved.

[20] Hodges: *Baltimore Conference*, p. 72.

	CHINA	CANADA	UNITED STATES
Imports, per capita	$1.85	$88.71	$28.06
Exports	1.24	103.13	33.94
Revenue	1.99	30.18	42.92
Debt	3.88	159.10	237.07

With cotton goods and cigarettes, there are possibilities of China's economic progress. China does not need to import cotton because there is plenty of land and labor in China for the basis of an industry of its own. It lacks only the capital. The same is true of tobacco. If China can levy a tariff to stimulate and protect these two industries, it will have used its sovereign right of autonomy to good use. "Tariff autonomy resulting in effective protection to cigarettes and cotton, representing the only two commodities of importance in China's import trade which could be produced economically in China would result in reducing China's unfavorable trade balance.

The total imports of these two in 1925 equalled 286,000,000 "and the unfavorable trade balance is estimated at 268,000,000 tls".[21] If this balance is eliminated, then the Chinese can add the money it previously borrowed for industrial development and use both amounts for this latter economic advantage.

Industrial development will aid the western powers too. Although they lose the sale of piece goods, they will gain added sales of iron and steel products, machines, automotive and railroad equipment.[22]

Thus the Chinese insist that tariff autonomy can not mean a general high protective tariff, but will mean a higher tariff on some goods and a lower tariff on others. The great desiderata are to stimulate the Chinese trade and to encourage Chinese industry. Those are the features of the economic policy China would forward by means of its power over the tariff.

China is economically backward. It is far behind in its industrial struggle with the rest of the world, particularly Great Britain and Japan. Its whole economic structure is local in nature. The average Chinese life is bounded by his family and his farm. His activities are limited to these two things.

"As the great mass of the people lived two thousand years, so they live now. It may truthfully be said that the contact of the country with the Occident has produced hardly more than a ripple upon its economic surface. Its means of communications are so meager and so poor in quality"[23] "that foodstuffs shipped

[21] Eldridge: *Baltimore Conference*, p. 74.
[22] F. R. Edridge: Trade and Customs Control. *Baltimore Conference*, p. 74.
[23] Goodnow: *China, An Analysis*, p. 54.

from our Pacific Coast could reach north China's famine areas a short time ago more effectively than a surplus going to waste in China's own west.[24] This lack of means of communication is the root of China's backwardness but the narrowness of the horizon of life and the laissez faire policy of the Government are other retarding factors.

China is on the verge of an industrial awakening. It is true that the majority of industry is carried on by the handicraft system but there are evidences of the beginning of industrialism as the western world understands it. The superstition of the Chinese people used to be against railroads and mines. Some believed monsters dwelt in the earth. To sink shafts into the earth would anger the monsters and the monsters in turn would devour shafts, people and all.[25] But in spite of this, today coal fields are exploited, iron resources are opened up, and 7,000 miles of railroads have been constructed. Canton, Shanghai, Hankow, and Tientsin are made over by the rise of the factory system under the shadow of the walls of these ancient cities.[26] Every year China is adding flour mills, cotton factories, tobacco plants, iron and steel workshops, paper mills and factories of every description.[27]

This growth of the number of mills is direct evidence of the progress of industrialism. Prior to 1895, foreigners were not allowed to engage in manufacturing, and because the Chinese were left to themselves in the development of industries, there was little development. In 1896 there were 200 establishments using power driven machinery, by 1913, 600, but by 1926 the number had increased to 2500.[28] In 1891 there was one cotton mill with 2000 employees while in 1921 there were ninety-three mills (72 Chinese, 5 Japanese and 16 British) employing 120,000 people.[29] It took China until 1915 to put 1,000,000 spindles into operation but in the next ten years it tripled this number.[30]

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[24] Hodges: *Baltimore Conference*, p. 71.
[25] Arnold: *Commercial Handbook of China*.
[26] Hodges: *Op. cit.*, p. 75.
[27] Pan: *Trade of the United States with China*, p. 344.
[28] *China Year Book, 1926*, pp. 146 to 222. Complete list of factories.
[29] *Williamstown Report*, p. 62.
[30] Lee: *Baltimore Conference*, p. 91.

The cotton mills in China paid as high as thirty per cent dividend before the troubles of 1925, but now many are closed. Others are operating at a loss due to civil wars, labor troubles and the anti-foreign agitation. But with the coming of peace, should come China's increased industrial progress.

Another concrete proof of China's industrial awakening is that of the City of Wusih. "It boasted in 1920 of fourteen modern steam silk filatures, eleven modern mechanical rice mills, five large flour mills with machinery similar to that used in Minneapolis and Duluth; three large cotton textile mills; two cotton seed and bean mills; one modern electric light and power plant; one telephone system; one brewery; four modern style banks. Paved roads, modern schools, a library and a community hall"[31] complete the description of one city's modernization. Other cities have industrialized in the same way; some to less and some to greater extent.

A third evidence of the effects of the Industrial Revolution on China reveals itself with a study of the nature of their foreign trade. Because we find beans, skins, raw cotton, groundnuts, silk piece goods, tea as leading items of exports, we might see no evidence of industrialization. But consider the millions for whom Chinese factories must provide. It is unreasonable to expect the Chinese to export factory products when the factories can not hope to produce enough to supply the home demand.

But what does it mean when imports of building materials, electrical materials, gasoline, machinery, oil, locomotives, motor cars, bicycles, iron and steel increase consistently? It means China is buying what she needs for industrial development and is limiting her purchases of the products with which she can enter into competition.

The point that we have presented is simply this: China is industrializing. There has been made no effort to estimate the extent of such industrialization, for that is without our purpose. But as China is beginning to industrialize, China wants to use tariff autonomy to foster the industries which can be developed to supply Chinese wants in competition with the industries of other nations.

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[31] Tyau: *China Awakened*, p. 216.

III

The Organization of the Chinese Government

The seeming disorder in the Celestial Republic admits of clearest analysis when examined according to its outstanding features:

1. The organization of the Chinese government.
2. The interests of foreign nations in China.
3. The emergence of nationalism.

In studying the initial feature we shall first analyze the organization during the Manchu dynasty; secondly, that proposed by the Constitution of the Republic and thirdly, that which has actually existed since 1911. This examination will reveal the limitations upon the efforts of the Nationalists to establish a stable government and the rôle of tariff autonomy is overcoming these limitations.

To understand the present requires a knowledge of both the local and central governments during the Manchu régime. The most characteristic features in social and public life date from the Chou dynasty (1122-2 55 B. C.). From that time they have been in a state of suspended animation and have been modified only with the agression of western powers.

At the head of the Central government stood the Emperor. "In theory he wielded the absolute power of life and death over his subjects; he was a typical Oriental despot."[1] In practice his powers were definitely limited. He was limited by edicts of his predecessors on the imperial throne, by customs of the people which dated from time immemorial, and by the teaching of Confucius, Mencius and the other sages. He was considered as being responsible to Heaven for the welfare of his people and the people themselves judged as to whether or not he successfully carried out his responsibility. If they judged him unfavorably they felt it their duty to depose him. Moreover he had to depend

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[1] Vinacke, H. M.: *Modern Constitutional Development in China*, Chap. 1.

on his Censors for his information concerning the state of the Empire, and, if weak in character, he was forced to follow the advice of his Councillors in dealing with governmental situations.[2]

These Councillors consisted of members of the Imperial Clan, the Grand Secretariat, the Grand Council, and the heads of Administrative Boards.[3] The Imperial Clan, whose members traced their ancestry back to the founder of the dynasty, "had no important special privileges outside of those strictly appertaining to the government and conduct of the affairs of the family."[4] The Grand Secretariat, the original supreme inner cabinet consisted of the most renowned scholars of the empire appointed by the Emperor. The Grand Council established in 1730 to deliberate and advise on the affairs of the state from the highest to the lowest mandarin, decreased in importance until it had nothing to do but promulgate decrees and keep records.[5] The actual administration of affairs was in the hands of the Boards of Appointment, Revenue, Public Ceremonies, War, Punishment and Works.

This central organization was modified but slightly because of the introduction of Western ideas. The Council idea persisted in the formation of a Privy Council, a combination of the old Grand Secretariat and Grand Council. The Boards were enlarged to include Boards of Foreign Affairs, Commerce, Education, Posts, Communications, Navy and Dependencies. These were converted into ministries and organized as a Cabinet under the direction of a Prime Minister.[6] Western contacts introduced one new feature into the central government. There existed in 1911 a National Assembly of two hundred members appointed by the Emperor according to his own wishes and arrangements.

"This was the central organization which existed in the last year of the Manchu régimé: an Emperor; a Privy Council; a Cabinet of Twelve; and an Assembly of two hundred members.

For administrative purposes the powers of the Central Govern-

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[2] Hornbeck: *Contemporary Politics in the Far East*, p. 22.
[3] *China Year Book, 1912*, Chap. XIV, p. 221.
[4] Hornbeck: *Op. cit.*, p. 26.
[5] *Ibid.*, p. 23.
[6] Li, C. S.: *Central and Local Finance in China*, Chap. 1.

ment were delegated among eighteen provinces. Jernigan compares the status of these provinces to that of the American States under the provisions of the Articles of Confederation,[7] while Morse thinks they are "territories which have their executive and judicial officers appointed by the central power and removable at pleasure but have local autonomy for the levy of taxes and the administration of laws. . . . The provinces are satrapies to the extent that as long as the tribute and matriculations are duly paid they are free to adminster their own affairs."[8]

The provinces were ruled by appointed viceroys or governors. Each governor, subject only to the final supervision of the Emperor, exercised an absolute power over his province. He was limited only by "his own character, by his fear of removal, by his distance from Pekin, and by his ability to have his will carried out in his province."[9] He was responsible for peace and order, but so that he could not become too firmly entrenched in his power he was always appointed from another province and nominally for a term of but three years. Assisting the Governor in the actual administration was the Provincial Treasurer, who was the head of the Civil Service as well as the Chief Fiscal agent in the Province; the Provincial Judge who was the final provincial Court of Appeal; the Salt Comptroller and the Grain Intendent. Besides these officials there existed the provincial Chancery or Ministerial Bureaus corresponding to the Ministries in the Central Government. There were also special officers such as Road Engineers, tax collectors, clerks, and secretaries who were responsible only to those directly above them.[10]

The provinces were divided into circuits (taos), circuits into prefectures (fu's); prefectures into districts (hsiens, Chow, or Tings).[11] All the provincial officials, down to the Hsien magistrate, were appointed directly by the central government from the literary class. Chinese were eligible for appointment by

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[7] Jernigan: *China in Law and Commerce*, p. 35.
[8] Morse: *Trade and Administration of China*, p. 46.
[9] Vinacke: *Op. cit.*, p. 6.
[10] Li: *Op. cit.*, p. 31.
[11] Vinacke, p. 7.

passing literary examinations. The circuit officer was to check on the prefect, who exercised the delegated authority of the Governor in his Prefecture. The prefect was principally the channel of communication between the Governor and the Hsien or district magistrate.

It was this latter official who was the real foundation of the Chinese administrative system. Though appointed by the Emperor, his work brought him into direct touch with the people and thus he came to personify the power of government to the mass of the population.[12] He was the court in civil cases and to some extent in criminal cases, he was police magistrate, tax collector, famine commissioner and coroner. He was responsible for city walls, prisons, bridges, roads, schools, public order, welfare, morals and philanthropic institutions.[13] Aside from him there was no evidence of the actual existence of any government to more than twenty per cent of the people.[14]

The vast majority of the people were blissfully ignorant and consequently unconcerned of prefects, governors, etc. They lived their daily lives under the customs handed down to them from Confucius, under the common law of the land, executed and interpreted by themselves. The village, an organization of families was the unit of local self-government and the village elder who was elected was the arbiter of disputes that may arise in his territory.

This Manchu dynasty had reigned since 1644, but after the death of the good emperor Ch'ien Lung in 1776 it had inflicted an unwise and unjust dominion over the people of China. There was no uniformity in administration due to differences in local customs and to the differences in the willingness and ability of the men administering the laws. Because of the theory of personal responsibility for territory under immediate supervision, the officials from the highest to the lowest became notoriously corrupt. This judgment assumes western standards, for to the Chinese they were not so considered. Each man, for example, was held responsible to his immediate superior for a given sum of money

[12] Hornbeck, pp. 34, 35, and Morse, p. 56.
[13] Morse, p. 59.
[14] *Ibid.*

and he kept for himself all that he was able to collect above that amount. Each small magistrate looted the people for all he could get and passed along as little as possible. The viceroy got all that he could out of the district officials and passed as little on to the Court as possible."[15] The encouragement of this atrocious system by a century long succession of emperors created unspeakably bad conditions and heaped coals of criticism on Manchu heads.

Again, the administration was weak. The Imperial framework held together as long as its dangers were internal but the emperors had proved themselves utterly incompetent to deal with the foreign powers. "Reverses in war, loss of territory, the grant of concessions which threatened the independence of China,[16] all reacted on thinking Chinese"[17] These regarded the Manchus as aliens and disliked their overlordship: when they discovered alien rule essentially powerless, they proceeded to overthrow it.

The revolution of 1911 was not the first evidence of concerted opposition to the Manchus. Secret societies of the South promoted the White Lily insurrection which devastated six provinces between 1797 and 1806.[18] The whole empire was rent with disorders, some of minor import and some of serious consequence. In 1852 there broke out the terrible Taiping Rebellion which lasted for twelve years. It cost one hundred million lives and left the "Imperial Government undisputed master of scarcely a province in the Empire."[19] From this time until 1911, there was no definite anti-dynastic rebellion. There was in its stead a movement for reforms. This was the direct forerunner of the revolution which ousted the Manchus from the dragon throne. The reformers demanded the abolition of literary examination for the civil service, a written constitution and ministerial reconstruction. The Empress Dowager decreed the abolition of the examinations but made no attempt to have unwilling officials enforce her decree. She established a constitution but applied

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[15] R. Gilbert: *Fortnightly Review*, November, 1926, p. 68.
[16] See below for description of these foreign encroachments.
[17] S. G. Cheng: *Modern China, a Political Study*, p. 13.
[18] Bland: *Recent Events and Present Policies in China*, p. 64.
[19] Morse: *Trade and Administration of China*, p. 21.

to the constitution "the single principle that the Manchu autocracy was to be maintained forever."[20] She promised them ministerial reconstruction but there was no evidence of any reform in the actual administration of the country.[21] With steadily increasing taxes, discontent grew and the nation simmered with rebellion.

Dr. Sun Yat Sen was the first man to organize revolutionary societies with the object of overthrowing the Manchu dynasty and establishing a Republic. Those who became prominent in the Revolution were mostly his disciples. They had, by writing and lecturing built up a republican sentiment that needed but an occasion to assert itself. The occasion came October 9, 1911, when a plot to assinate the Viceroy was discovered in Wuchang in the province of Hupeh. The assassins were executed but public feeling was torrid because the Viceroy was believed responsible for the railway nationalization project sanctioned in the Hukuang Railroad loan.[22] Within a few hours after the execution of the assassins, the city fell, the Viceroy fled and the greater part of the provincial army mutinied. Other provinces joined the revolt, and the Prince Regent recalled Yuan Shih Kai from exile to the post of Prime Minister, hoping, this able Honanese would be able to save the Manchu dynasty.

Yuan believed in a constitutional monarchy, he doubted the wisdom or even the possibility of a republic. He dispatched Imperialist forces against the city of Wuchang. Meanwhile January 1, 1912, a Republican Government was established at Nanking with Dr. Sun Yat Sen as its president and with an assembly consisting of delegates from the provinces that had joined in revolt as its Parliament. A provisional constitution was drafted, adopted, and proclaimed as the fundamental law of the land, pending the adoption of a permanent constitution. During the month of January, this Republican Government negotiated peace with Yuan and discussed terms for the abdication and pensioning of the Emperor. On February 12, 1912, the Emperor

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[20] Quigley: *Op. cit.*, p. 8. For complete discussion of reform movement, see Vinacke: *Modern Constitutional Development in China*, p. 34., ff.
[21] Morse: *Op. cit.*, p. 31.
[22] *China Year Book, 1926*, p. 1222.

by Imperial Edict announced his abdication. Sun Yat Sen resigned the presidency of the Republic in favor of Yuan Shih Kai. Thus in four short months the revolution seemed to have accomplished its purpose.

Although the Republic was proclaimed it was not established. In the first place, only a few leaders realized the seriousness of the movement. To the masses republicanism meant merely "no taxes and no government". They did not understand the defects and the drawbacks of popular government nor did they care. They had never seen their emperor who secluded himself in a castle. The substitution of a president for an emperor was to them a matter of no concern.

Since these events, there have been several attempts to set up a strong and efficient government, but none have met with marked success. The existence of the parliament had been precarious, but during its life it had passed laws of good intent and adopted a permanent constitution. But the paper regulations set forth in the document are at best, expressions of hopeful theory and do not reflect actual conditions. What is supposed to be and what is, are so very different that each must be presented separately.

The organization of the central government of the Republic, according to the Constitution, bears a close resemblance to the western systems.[23] At its head is the president. He must be a citizen of the Republic of China, in full enjoyment of his public rights. He is elected for five years, subject to one reelection, by at least three-fourths vote of a two-third attendence of the entire membership of both houses of the Legislature sitting together as a National Assembly.[24] He promulgates laws and issues orders for their execution. He is the Commander-in-Chief of the Army and Navy. He appoints and removes all civil and military officials with the exception of those specially provided for by the Constitution or other laws. With the concurrence of the Legislature, he can declare war and conclude treaties, and with the

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[23] Sources: The Chinese Constitution. See U. S. Department of Commerce: *The Commercial Handbook of China. China Year Book, 1926*, p. 1227. Three is given the translation of the Chih Yuan Lu or List of Officials as in the 1924 Cabinet publication.

[24] Chapter 7 of the Constitution.

concurrence of the Senate he can dissolve the House of Representatives.[25] He is assisted by a Vice-President and a cabinet of nine ministries: Foreign Affairs, Interior, Finance, War, Navy, Justice, Education, Agriculture, Communications.[26]

Attached to these institutions of the executive branch of the central government, there exist other agencies which have been created to meet peculiar Chinese needs. There is an Administrative Court, a Board of Audit, a Commission for the Readjustment of Finance, a Central Salt Administration,[27] a wine and Tobacco Bureau,[28] a Revenue Council,[29] a separate department in charge of Mongolian and Tibetan affairs and another in charge of the Metropolitan District.

The central legislature is made up of a Senate and a House of Representatives. "The latter represents the country in the proportion of one member for every 800,000 population, while the former takes care of the unrepresented interests, such as the Provincial Assemblies, the Dependencies, the Central Educational Society and the Chinese overseas. There are 274 Senators and to this body belongs the special jurisdiction of trying impeachment proceedings; of concurring in the President's appointment of the Chief Justice of the Supreme Court; in his dissolution of the lower House, and his adjusting differences between the provinces. The House has 596 members and it initiates finance bills, impeaches the president, vice-president or ministers, and passes a vote of non-confidence in the Cabinet." The two Houses sitting together form the National Assembly which meets to elect the president or to carry out any definite function as prescribed by the Constitution.[30]

The national judical system consists of district courts (located in the hsien throughout the country); higher courts, one in each province, and a Supreme Court. The justices, who are apportioned to three civil and two criminal divisions, have appellate

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[25] Article 71. Contrast this with the real situation.
[26] Article 76.
[27] Reorganization Loan Article 5.
[28] Responsible to premier.
[29] In charge of Maritime Customs.
[30] *China Year Book, 1926*, p. 1228.

jurisdiction in cases brought from the higher courts and original jurisdiction in cases involving the State.

The government of the provinces has undergone no such transformation as has the central government. The provincial executive authority is vested in the military governor or tupan and in the Civil Governor. The tupan,[31] except in times of disturbance is in charge of military affairs alone, but he is subject to orders from the President, the Ministry of War and the General Staff at Pekin. The civil governor,[32] acting in close touch with Pekin, is supreme over foreign affairs, finance, education, industries, and justice. He commands the militia and controls the district magistrates as the latter are appointed or dismissed according to his recommendation. Assisting the governor in each province, there are the heads of Bureaus of Finance, Foreign Affairs, Education, Industry and Justice. Each of these latter officials is responsible to the corresponding department in the National Ministry.

The legislature of the province consists of an elected single chamber assembly with a list of powers that is needless to enumerate.[33] The prefects have been abolished and the hsien is accorded its proper recognition as the unit of local government. There has been created a district assembly which is supposed to elect the magistrate. The magistrate still maintains his power over every branch of local government. He is the district executive, legislature and judiciary. He is the sine qua non of any government to the mass of Chinese and the constitution has made little effort to limit or modify his powers.[34]

The actual conditions in China disclose a far different picture than the one formed by a mere reading of the Constitution. Since the death of Yuan Shih Kai, civil wars have raged constantly within the republic and consequently there has been no stable central government. "Seven presidents; forty-three cabinets with an ever changing membership and twenty-five ministers of justice have held office during the past ten years. The last presi-

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[31] *Constitution*, Chapter 12a.
[32] *Constitution*, Chapter 12b.
[33] *Constitution*, Chapter 12.
[34] *Ibid.*, Section h.

dent, Tsao Kun was locked up in Pekin from December 1924 to April 1926 because it was said he bought his office.[35] When the armies of Wu Pei Fu and Chang Tso Lin entered Pekin he was released."[36] Then the acting Chief Executive, Tuan Chi Jui[37] fled from the presidential mansion to the Foreign Legation quarter in Pekin and thence to the foreign concession at Tientsin where he now resides. Two other presidents of the Chinese Republic preceded him to that asylum.

The presidents are tools of whatever militarist happens to be in power and are the agencies by which the overlords control the revenue surplus and the foreign relations. When the overlord militarist is defeated, a change in the Pekin administration has to follow. But since the last turnover in April, 1926, there has been in China (nominally a Republic), no government capable of exercising authority. There is "no president at all, no parliament and, so far as one can see, no purpose of anyone having a shred of actual power to install either a President or a Parliament or to take any steps towards electing them."[38]

There is a so called cabinet but it is a practical nonentity. Its personnel is so changeable, its members resign and shift so often that even in China, "we cannot (and have quit trying to) keep account of them. . . . Cabinet ministers are puppets, nothing more. Days pass when not a single minister appears at his office. There have been times recently when every cabinet minister took refuge under foreign protection in the Legation quarter in Pekin or in a foreign concession at Tientsin, eighty miles away, from where they would conduct the affairs of their departments by telephone."[39]

"The truth about Pekin's cabinet positions", adds the *Phila-*

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[35] *China Year Book, 1926*, p. 1225. It is stated that he distributed $15,000,000 among militarists and members of the Assembly to procure his office.

[36] Strawn: *Op. cit.*, p. 23.

[37] Dewey: *China, Japan and the United States*, p. 28, says: "During the two years Tuan Chi Jui was in power the Anfu Club controlled the ministers of Finance and Communications, the two cabinet places that dispense revenues, give out positions and make loans. During a reign of corruption they got away with $200,000,000 of public funds directly to say nothing of what was wasted by the incompetency of the army."

[38] *New York Times*, October 11, 1926. Article by T. F. Millard.

[39] *Ibid.*, p. 3.

delphia Ledger, "is that they mean nothing more than the thrones of rulers in motion pictures. Today the Minister of Finance has no money except the small sum collected by foreigners and turned over to the Central Government after the interest and sinking fund requirements of foreign debts have been covered. The Minister of Communications controls no railways because the warlords have taken locomotives, rolling stock and roadbeds. The Minister of Education controls government schools, which are closed because they have paid no salaries since April 1925, and which had neither light nor water service because of unpaid bills . . . The Minister of Interior cannot name a single subordinate without first consulting the wishes of the warlord who happens to control the district in which the subordinate will act. The Minister of Foreign Affairs finds that provincial officials dealing with local consuls-general settle all disputes with foreign governments."[40]

These conditions are indicative of the general weakness of the central government. "Codes of law are paper declarations not enforced in the courts, and courts are often creatures of military leaders who use them for their own ends. Though there are many persons under arms, the Chinese government has no effective military force, the soldiers being mercenaries of the several military leaders. The government is plunged in debt, having actual expenditures amounting to seventeen times its revenue."[41] Long past due obligations, foreign and domestic, for money borrowed and for materials furnished give the central government little or no concern. The officials are interested solely in devising ways and means of raising loans, landmarking funds to the requirements of their masters. Is it any wonder their authority is gone? The entire country is overrun with soldiers and bandits. Foreign Legations are unable to secure any redress from the central government for wrongs done to their nationals in any part of China. Provincial officials hold the Central Government and its orders in contempt."[42] Thus we see the contrast

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[40] "News Items," *Philadelphia Ledger*, November 21, 1926.
[41] Williamstown Institute of Politics: *Report of Sixth Session on Chinese Republic and the Powers*, Mr. Henry K. Norton, p. 50.
[42] *Williamstown Report*, p. 50.

between the central government supposedly established by the constitution and that which actually exists.

When one turns to the conditions in the provinces, he notes a contrast quite as striking as that in the central government. In place of a well ordered civil administration, as provided by the permanent constitution, there exists a domination by the tupans. During the revolution the military supplanted the literary as the dominant factor in Chinese activity and today military chieftans are supreme in their province or provinces.[43] Their position is somewhat similar to that of an independent feudal baron,—it is even stronger. The tupan (or tuchun) is dictator in his locality. He takes absolutely no directions from Pekin and, he serves no interest but his own. "He dominates the provincial assembly by intimidation or bribery and tolerates no opposition from the civilian."[44] No Chinese citizen dares protest or attempt to do anything to bring order out of the chaos that obtains. "Every newspaper article which escapes the censor and which may be regarded as a criticism of the dominant warlord or his underlings, subjects the editor to the peril of summary execution without even the pretense of trial."[45]

The tuchun looks upon his army as his own personal following and not as an army of China.[46] He fills all the offices under his control just as he desires. He appoints such of his followers as he favors and removes whom he disfavors. He is able to enforce but little discipline in his ranks, and can not prevent trickery or betrayal on the part of his underlings.

Moreover, the tupan collects and keeps all the revenues that he can possibly secure. He often seizes tax collecting stations and makes requisitions upon local chambers of commerce.[47] He sequesters the native customs, the likin or transit tax and levies such additional tax burdens on the natives as he can possibly secure. He takes the Wine and Tobacco taxes, Land taxes and Traffic dues. Note an official report on this point:

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[43] If a militarist controls more than one province, he is referred to as a supertuchun.
[44] Quigley: *Annals of American Academy*, November, 1925, p. 11.
[45] Strawn: *Op. cit.*, p. 7.
[46] *China Year Book, 1926*, p. 1017.

"In more recent years, the revenues of the railways have become a source of income to militarists who appropriate them directly. The Kin Han railway alone supplies more than $10,000,000 annually to military requirements. The funds that have been seized from other railways and telegraph offices are enormous. Not satisfied with merely commandeering the earnings, all railways, and telegraph offices have been obliged to borrow money at a high rate of interest to meet these military demands. There have even been cases of high military officers borrowing directly from the merchants pledging the revenues of communications as security. It is estimated that up to the end of the 13th year of the Republic no less than $180,000,000 have been appropriated, seized and taken away in one way or another by different forces."[48]

To this state of affairs Mr. Strawn adds his testimony:

"When the equipment is not being used for the movement and billeting of troops its use is sold by the warlords to the unfortunate shippers at outrageous rates. The usual 'squeeze' for the use of a freight car is $5.00 per ton in addition to the freight rate. . . . The American Legation last summer arranged to buy its winter coal from a mine about twenty miles from Pekin. The underlings of the dominant warlord demanded a squeeze of $2.00 per ton for the cars to move the coal; in addition the Legation must pay the warlord $25.00 per car and to the village through which the coal must pass, $1.80 per car."[49]

The tuchuns do not care that they have forced the means of communication on the brink of bankruptcy so long as their purposes are served. They move their troops and fill their purses and return practically nothing to Pekin. Every warlord keeps his squeeze for if he sent it to Pekin, it is conceivable that it might be used later in military operations against him.

With the treasures that pour into the coffers of the tuchuns they fight with one another to secure the control of more territory and eventually of Pekin. That fatal lure of the metropolitan

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[47] *China Year Book, 1925*, p. 712.

[48] Official Report of the Ministry of Communications, 1925. Quoted in Strawn, *op. cit.*, pp. 2 and 3.

[49] Strawn: *Op. cit.*, p. 4.

district keeps the leaders in the struggle for supremacy and makes the provinces scenes of warfare. Personal, ambitious, jealous militarism—is the phrase which characterizes the actual condition of the provincial governments of China and makes impossible the operation of a civil peaceful government such as the Chinese themselves would create.

Actual conditions in the Chinese village life today are not very different than they have been. It is true civil wars rage on the surface of China but they do not affect the common people.[50] Except for an occasional food foray, their life continues just as it has for years. They pay their taxes to the hsien magistrate and obey the village elder in his exercise of the common law and his teaching of the sages.[51]

Three is today no confusion in the localities; the villages and districts move in the ancient groove. It is significant to bear in mind that the provincial warfares concern those in the cities: the students, the workers and those along the coast who have come in contact with western civilization. At least four-fifths of the Chinese people are not at all concerned with events in China. They engage in their agricultural pursuits, they live the time honored civilization handed down from their sages, and neither constitutions, wars or foreign powers have served to change their daily lives, customs or government.[52]

To summarize; the central government is practically an illusion. It is a fiction to deal with foreign powers and it is helpless except as it is the shadow of a dominant warlord. In the provinces, the tuchuns are autonomous dictators. They scorn the central government, they administer the provinces as they choose; they collect and keep all the money that they can squeeze; and they fight among themselves to secure control of all China. In the local districts; the farms and the villages, the Chinese continue their patient Oriental lives, paying their taxes to the magistrate above them. The family remains, for the present, the unit to which the allegiance of the person is primarily due. Families choose the village elders and these elders represent the

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[50] Norton: Williamstown Institute, *Op. cit.*, p. 50.
[51] Quigley: *Op. cit.*, p. 12.
[52] *Contemporary Review*, November, 1926, p. 594.

government to millions of people. This is the democratic root of the government superimposed on the Chinese people.

This is the heritage with which the Nationalists must establish a stable government and attempt to solve the first element in the political situation. How can they proceed? How will tariff autonomy aid or hinder them in their endeavors?

Several methods of procedure suggest themselves to the student of Chinese affairs. Even if loyalty to a Chinese Nation is a sentiment which will have to be developed, individual loyalty to the provinces can be kept alive and directed to the formation of a federated republic. That is, China can conceivably admit its inability to form a superior central government, and organize with the provinces maintaining internal jurisdictions over their subjects. These provinces can delegate such power to a central government which is necessary for internal unity and external intercourse with the rest of the world. But the reservoir of sovereignty can remain with the province.

There are disadvantages to such a system but it seems quite possible as a present practical means to a superior desired end. At present, there is loyalty to the republican form of government for the provinces. That accomplished, it is but another step to the delegation of provincial powers to a central government. Then a process of evolution can make for increased strength on the part of the central government. Or if the Chinese find they can better develop themselves by provincial autonomy and no central government, they need not bother about developing a central government. Thus the federated republic, with the province as a keystone, is one way out of China's dilemma. Develop a democratic provincial government as a prime objective, and let time determine first, if a central government is necessary, and second, just how powerful a central government is expedient.

Then there is another horn of the Chinese dilemma, which seems a more probable solution of the relation of China's local and central government. That is the possibility of a dictator. Let some leader who has established himself in a given region, by military power subdue his foes. He can force submission to his will and begin the development of an allegiance based on desire and not on fear. Thus far, the chief means of securing

loyalty has been physical power; for when the leader loses his power, his men desert. Such means of maintaining discipline is effective, but not permanent.

The thing to do is for a general to use these means in the cause of a central government built on the rocks of Chinese patriotism. Conquer China and rule China, with a military organization if necessary, but keep China together. Then by the process of education, patiently teach the people the value of Chinese unification and stimulate their desire for that unification. When the people support the government, and not a group of leaders, then China's problem of a central government will be solved.

The ultimate sovereignty will reside in the central government as the organ of the people. It can delegate its administration to provinces and districts, and in fact, encourage local units to solution of their own problems. With a strong central government Chinese nationalism will be secured. There will be the advantages of the efficiency of centralization along with the decentralized administration which will command the interest and the support of the masses of the people. It can not be done in a year, probably not in a generation, but it is an end worth striving for.

All methods for the solution of this puzzle are fraught with difficulties and will demand the support of every possible unifying force to insure success. Tariff autonomy is essential to each for without this source of revenue, no government can hope to perpetuate itself.

IV

The Control of Commercial Relations

A second significant group of features in the political situation appears in the interests of the foreign nations in China. These are: (1) Foreign control of commercial relations, (2) foreign control of certain Chinese revenues, (3) foreign control of certain Chinese territories, (4) extraterritoriality, (5) foreign commerce, (6) investments and (7) miscellaneous interests. One can best understand the agitation for and against tariff autonomy when he studies it with the perspective which the knowledge of this second phase of the political situation provides. economic needs.

Commercial relations constitute the most vital interest of the powers in China. They have existed since the most ancient times, but have always been subject to peculiar regulations

The Portuguese were the first of the modern nations to promote their trade interests in the Orient. They discovered the sea route to the East and established a settlement at Macao, an island off Canton. In the sixteenth century they were followed by the Dutch, Spanish, Russians and British. For two obvious reasons, the early Chinese trade remained insignificant. First, China did not have much that the world wanted to buy nor could China buy much, except opium, that the rest of the world offered for sale. Second, the methods of trading were extremely unsatisfactory to the foreigners.[2]

The Chinese looked upon the newcomers as barbarians with no rights at all and they felt as though they were entitled to extract all they could from the traders. They operated through the hong system. The hong was a body of from two to eleven Chinese merchants to whom was granted the absolute monopoly

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[1] Morse: *Op. cit.*, p. 277.

[2] "The ideas of international law, long established in Europe were entirely unknown to the Chinese. In their view the barbarians were admitted to trade purely on sufferance; they had no established rights and no recognized representatives and they must submit entirely to the jurisdiction of the native official." Sargent: *Anglo Chinese Commerce and Diplomacy*, p. 26.

of all foreign commerce in each particular port. It regulated conditions under which ships could enter the ports and discharge their cargoes; it levied duties according to its own ideas of what the traffic would bear.[3] Foreigners protested but the superior Chinese government could not deign to listen to the mutterings of the "barbarian" traders.

The Chinese mastery of the situation was destroyed in the period following 1834 and since that time the Chinese have been relegated to such a position that they do not control their foreign trade. It has been regulated by a series of commercial treaties virtually dictated by the western powers.

Western supremacy began when the British government destroyed the monopoly which the British East India Company had enjoyed in the trade with China. The government permitted all British companies to enter into that trade. It anticipated the difficulties the new entries would encounter and sent Lord Napier to China. He was to be the representative through whom commercial complaints might reach, beyond the hong, to the ears of the Emperor.[4] Complaints were many but most of them centered about conditions which resulted from the enormous but illegal opium traffic. The British profited from this traffic and resented the attempts of the Chinese to curb it. When the Chinese seized and destroyed large quantities of opium the British declared war. Its successful termination afforded the opportunity to force the Chinese to adopt western views of commerical intercourse.

The treaty of Nanking, August 29, 1842, forced the Chinese to pay reparation for past injuries and insults, and compelled them to abandon their policy of exclusion and attitude of superiority towards other civilizations. It is the first of the foreign dictated treaties which regulate the conditions of commercial intercourse between China and the rest of the world.

By its terms, the Chinese abolished the hong and allowed the British to carry on mercantile transactions with whatever persons they pleased.[5] The Emperor opened the cities of Canton,

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[3] Morse: p. 283 for Hong regulations of 1760 in Canton.
[4] Sargent: *Op. cit.*, pp. 58-63. His mission was unsuccessful.
[5] Hertslet: *China Treaties*, Vol. 1., No. 1., p. 10, Art. V.

Amoy, Foochow, Ningpo, and Shanghai for trade and allowed British subjects, with their families and establishments, to reside therein, for the purpose of carrying on their mercantile pursuits.[6] These same merchants might communicate with the Chinese authorities through the medium of consular officers appointed by Her Majesty's Government.[7] By Article X, China signed away her own sovereign power over her tariff duties:[8]

"His Majesty the Emperor of China, agrees to establish at the ports which are by the second article of this Treaty to be thrown open for the resort of British merchants, a fair and regular tariff of export and import customs and other dues, which tariff shall be publicly notified and promulgated for general information;[9] and the Emperor further engages, that when British merchandise shall have once paid at any of the said ports the regulated customs and dues agreeable to the tariff, to be hereafter fixed, such merchandise may be conveyed by Chinese merchants to any province or city in the interior of the Empire of China, on paying a further amount in transit dues, which shall not exceed---per cent on the tariff value of such goods.[10]

Pursuant to this provision the Chinese government signed a supplementary treaty with Great Britain, October 8, 1843. This established an average five per cent ad valorem duty on imports and exports; and a two and a half per cent additional ad valorem transit tax for goods destined for the interior.[11]

Following these grants to the British the French[12] and the American,[13] secured the same privileges through treaties with China. Each nation secured a guaranty of favored nation treatment by the insertion of such a clause in its treaty. The British clause is typical:

"It is further agreed that should the Emperor hereafter from

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[6] *Ibid.*, Article II.
[7] *Ibid.*, Article, X.
[8] Hsia: *Studies in Chinese Diplomacy. Comments on Tariff History*, p. 195.
[9] The Chinese government sent a tariff schedule to the hong merchants but the hong merchants charged whatever they pleased.
[10] *Customs Treaties*, Vol. I, p. 352.
[11] *State Papers*, Vol. 31, pp. 132, 141.
[12] Hertslet, Vol. I, No. 39, p. 258.
[13] *American State Papers*, Vol. 32, p. 791 ff.

any cause whatever be pleased to grant additional privileges or immunities to any of the subjects or citizens of such foreign countries, the same privileges and immunities will be extended to and enjoyed by British subjects."[14]

But these western regulations had their shortcomings. They failed to smooth the friction between the Chinese and foreign traders.[15] The latter attempted to dodge the duties assessed against them and to defraud the imperial revenues. Smuggling was a lucrative profession[16] and produced many conflicts with Chinese officials. War broke out when Chinese soldiers boarded the lorcha "Arrow," in 1856, hauled down its British flag and carried off twelve of its crew. The British were naturally victorious and again used a Treaty of Peace to regulate Anglo-Chinese commercial relations.

The Tientsin treaties, concluded with England, France, the United States and Russia[17] mark the second stage in the western control of Chinese external trade. The Chinese Government legalized the opium traffic by permitting its entry subject to heavy tariffs,[18] and designated Neuchwang, Tangshau, Taiwan (Formosa), Swatau and Kungchau (Hainan) as ports for trade.[19] It agreed to extend the rights of aliens in the treaty ports to "build or open houses, warehouses, churches, or hospitals" and it assumed direct responsibility for the life and property of the treaty aliens.[20] It allowed alien merchants to travel into the interior with passports and gave alien vessels the privilege of trading on the Great Yangtze and other navigable waters.[21] It conferred the system of exterritoriality on treaty aliens and granted them the right to open diplomatic missions at Pekin.[22] Finally, it secured a revision of the tariff because the rigid

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[14] Article 8. British Treaty. As other nations have signed commercial treaties with China all have been guaranteed favored nation treatment. For details see Sze: *China, the Most Favored Nation Clause*, p. 95.
[15] Sargent: *Op. cit.*, Chapter 4 describes this friction.
[16] Chin Chu: *History of the Chinese Tariff*, p. 28.
[17] *The Chinese Imperial Customs*, Vol. I, p. 216.
[18] Tariff Rule 5. Quoted in Chu, p. 36.
[19] Article 9. Chinkiang was opened later.
[20] *British Treaty. Chinese Customs*, Vol. 1, p. 217, Art. 18.
[21] *Ibid.*, Article 9 and 10.
[22] This is abandonment of its attitude of superiority.

schedule adopted in 1843 no longer met the conditions prevalent in 1858.[23]

This tariff agreement was made on November 8, 1858. It contained rules of trade and a tariff list. In general, it enumerated, a list of regular articles for specific duties calculated on a five per cent value of the current wholesale price in the Chinese market;[24] it enumerated a free list of articles;[25] a contraband list;[26] and it provided that on all unmentioned articles there should be a five per cent ad valorem duty.[27] There continued a transit tax equal to half the tariff rate[28] and provided that on the request of either party the tariff should be revised every ten years.[29]

These commercial regulations continued with little modifications for the rest of the nineteenth century. These modifications are as follows:

1. September, 1876: Chefoo convention made special arrangements as to the import of opium. It opened new ports and allowed steamers to call at various points on the Yangtze River.

2. Treaties with France and Russia allowed rebates from the regular tariff duty for goods entered or carried across the land frontiers. For example, the French had to pay seventy per cent of the regular rate on imports to China and sixty per cent on exports from China.

3. Inland treaty ports were created.

4. The treaty of Shimonoseki provided for the right of "Navigation of the upper Yangtze, the right to rent warehouses in the interior, to import machinery and to start manufactures in the port under foreign control and ownership. Those were the privileges which now, China stripped of her territories and revenues, was compelled to grant to the foreign subjects[30]

The tariff was to be revised every ten years, but there was no revision until 1902, when the Chinese were in such desperate financial straits because of their Boxer indemnities. The powers

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[23] These articles are found in the British Treaty. Other nations have them through specific treaties or favored nation clause.
[24] Hertslet: Vol. I, No. 7, p. 35 ff.
[25] Gold and Silver bullion and necessities of Chinese life.
[26] Gunpowder, ammunition, salt.
[27] Rule 1.
[28] Rule 7.
[29] *British Treaty*, Article 27.
[30] List of treaties: *China Year Book, 1923*, p. 256.

had to revise the tariff in order to make it possible for China to secure more revenue.

Anyway it was about time for a tariff revision. The five per cent rate in 1900 was calculated on 1858 values and so the duties did not represent an effective five per cent. "Cloves were actually paying 3.85 per cent; imitation coral .06 per cent; feather fans .58 per cent and the general level of duties actually paid fell far below the five per cent intended.[31] Tariff revision necessitated a new treaty and Sir James L. Mackay was the Englishman who negotiated a treaty with the Chinese Government. This is another of the important treaties by which the Western powers have regulated the foreign commercial relations in China.[32]

Article 8 is the important article, so far as the tariff is concerned. According to it, the governments do not give more than five per cent but put on specific duties equivalent to an effective five per cent ad valorem.[33] They agree to allow a seven and a half per cent surtax in addition to the regular two and a half per cent tax on exports and to the five per cent tax on imports *when* China discards her likin or internal transit tax system.[34] Besides abolishing likin China obligates herself to establish a uniform coinage and currency system,[35] to improve conditions of inland navigation;[36] to revise her mining regulations,[37] and to reform her judiciary so as to prepare for the responsibilities which she must assume when she takes over the work done by the exterritorial system.[38] China also engages to legalize the holdings of Chinese individuals in joint stock enterprises;[39] to protect foreign trade marks and patent rights;[40] to increase facilities in the treaty ports for handling bonded

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[31] Chu: *Op. cit.*, p. 42.
[32] MacMurray: Number 1902-7, Vol. 1, p. 342.
[33] Article 8, p. 345.
[34] Article 8.
[35] Article 2.
[36] Articles 5 and 9.
[37] Article 9.
[38] Article 12.
[39] Article 4.
[40] Article 7.

merchandise;[41] and to open Ch'angsha, Wanhsien, Ngonking, Waichow, and Kongmoon as treaty ports.[42] China had to sign these paper obligations but can not for years bring about their actual fulfillment. They were imposed by the western powers for the purpose of securing a more favorable status of their commercial relations.

At the end of ten years, the powers were to revise this treaty so as to remedy any shortcomings which might have developed since its inception. But in 1912, China was in the throes of the Republican Revolution. Domestic policies occupied the major attention of the leaders who otherwise would have been more insistent for the desired tariff reform. However, the Chinese Government reminded the Pekin signatory powers in a circular note in 1912 that prices had risen so much that the five per cent on values of 1900 was no longer an effective five per cent. It asked for the promised treaty revision. It achieved no result and a similar request in 1913 was equally effective.[43] In 1917 China received the necessary consent for revision because upon this consent hinged its entry into the world war. Accordingly, fifteen nations: Belgium, Brazil, China, Denmark, France, Great Britain, Italy, Japan, The Netherlands, Norway, Portugal, Russia, Spain, Sweden, United States met in Pekin January 1918 to declare new bases of valuation of goods. They agreed to base the five per cent on average values of goods in Shanghai from 1912 to 1916; they reclassified goods; revised the free and contraband list and stipulated that "this tariff be subject to revision in whole or in part two years after the war."[44]

Meanwhile came the Limitation of Armaments Conference in Washington with its action on the tariff situation in particular and on commercial relations with China in general. China protested against the whole system of having the powers regulate her commercial relations according to their wishes and consequently it plead for tariff autonomy. Failing to secure

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[41] Article 6.
[42] Article 8, Section 12.
[43] Italy, Russia and Japan refused to consent to China's request. See *China Year Book, 1923*, p. 518.
[44] *China Year Book, 1923*, p. 521.

autonomy, it requested permission to increase its tariff rates so as to secure an effective five per cent, to abolish the reduction on land frontier rates, to levy a two and one-half per cent surtax on necessities and a five per cent surtax on luxuries. The purpose of these provisions was to secure increased revenues immediately.[45]

A subcommittee under Senator Underwood, considered the tariff increase, discussed and reported upon it.[46] The Customs treaty which resulted from this report provided that two new conferences should be convened. The first was merely to bring about an effective five per cent tariff, the second was to abolish likin, levy the desired surtaxes and establish a uniform rate on land and sea frontiers.[47]

The Conference on immediate Tariff Revision met in 1922. It was composed of delegates of all the nations which had met in 1918 except Russia. It adopted the Shanghai market value for the six months, October 1921 to March 1922 as a basis for the new tariff. It reclassified goods, drew up a complete new schedule, provided for settling tariff disputes, and revised the articles on the free and contraband lists.[48] The work of the 1922 commission was intended to afford more immediate revenues to China, but the broader questions of transit passes, drawbacks, abolition of likin and autonomy were left to the second conference provided by the Washington Agreement.[49]

This Conference met in Pekin, October 26, 1925,[50] and it was faced not only with the problems of the abolition of likin but with Chinese sentiment demanding the abolition of unequal commercial treaties. The Provisional Chief Executive, Marshal Tuan Chi jui,[51] and others presented pleas for tariff autonomy to

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[45] Willoughby: *China at the Conference*, p. 103.
[46] Senate Document No. 10, 67th Congress, 2nd Session.
[47] Articles 2, 3, 6, of *Customs Treaty*. *Ibid.*, p. 897.
[48] For schedule and rules see *China Year Book, 1923*, p. 555.
[49] The revised tariff went into effect January 17, 1923.
[50] Sources for presentation of the 1925 Conference: Fourteen manuscript summaries from the Department of State, *China Year Book, 1926*, Chap. 29, pp. 1106 to 1142. "China Today": Address by Mr. Silas H. Strawn.
[51] At the moment Tuan was in power because Feng and Chang Tso lin were jointly in control of Pekin. These two jointly appointed the Chinese delegates.

the delegates there at the opening session.[52] Dr. C. T. Wang offered definite proposals looking to this end:

1. The powers declare their respect for Chinese tariff autonomy and should agree to remove tariff restrictions contained in existing treaties.

2. Abolish likin and enforce National Tariff Law by January 1, 1929.

3. Before 1929 China should be allowed to levy a five per cent surtax on imports, thirty per cent on wine and tobacco and twenty per cent on B. luxuries."[53]

Dr. Hoiki, Chairman of the Japanese delegation, could not agree to all these suggestions. He was willing to recognize China's right to autonomy but he objected to the proposed higher surtaxes on the grounds that they were beyond the provisions of the Washington treaty and would impose unjust burdens on the Chinese themselves. Also they would endanger the trading interests of other countries. He was convinced that the increased revenues from a two and a half per cent to a five per cent surtax, along with the revenues from the customs surplus, would provide enough money, first, to compensate the provinces for their loss of likin; second, to refund the government unsecured debts and third, to meet the administrative expenditures of the central government.

The American Minister offered proposals that came closer to meeting the demands of China. He would:

1. "Affirm the principle of respect for China's Tariff Autonomy and negotiate a new treaty that shall give effect to that principle and which shall make provisions for the abolition of likin, for removal of tariff restrictions contained in the existing treaties, and for putting into effect the Chinese National Tariff Law.[54]

2. "Authorize at once the levying of the surtax of two and a half per cent and as soon as the requisite schedules can be prepared, to authorize the levying of five per cent surtax on luxuries.

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[52] The Conference was supposed to meet within three months. France refused to ratify the treaty because of the gold franc controversy. China wanted to pay Boxer indemnity debt in depreciated paper francs and France insisted on gold. The controversy was settled in the Spring of 1925 and the Conference was called in October. Strawn, p. 9.

[53] *China Year Book, 1926*, p. 1115, for text of proposals.

[54] Tariff Law mentioned is that of October 24, 1925. Text in Summary No. 2, Department of State Manuscript, October 28, 1925.

3. "Make provision for levying the full amount of the surtax at all land frontiers.

4. "Conclude a new treaty which shall provide:

   a. The Chinese shall be at liberty as an interim measure to impose a new schedule of duties at rates from five to twelve and a half per cent on imports and seven and a half per cent on exports.

   b. Rates of duties alike at land and sea frontiers.

   c. Abolition of likin and other related internal taxes.

   d. The purpose of increased revenues shall be the same as those proposed by the Japanese delegate.

   e. Subject to the fulfillment of these provisions the present treaty restrictions on the Chinese tariff shall cease to be effective and the Chinese Tariff Law shall come into force on January 1, 1929, as suggested by the Chinese delegation.[55]

The other delegates agreed to the desirability of tariff autonomy and the abolition of likin, but they did not submit definite plans as to how these things should be accomplished. The Conference set to work immediately and divided itself into committees, chief among which were those on "Tariff Autonomy and Abolition of Likin" and on "Provisional Measures to be Taken during the Interim Period."

While these committees were at work civil war broke out in China. Wu and Chang displaced Feng in control of Pekin[56] and the delegates who represented the latter were bereft of their authority. The new commanders of the city did not appoint other delegates to the conference and so there existed a conference in China, for the interests of China, and no Chinese delegates.

Feng's forces, the Kuominchun, after they were ousted, joined the Cantonese opposition to the Conference. Both refused to recognize Wu and Chang as representatives of the Chinese Government and both felt that any additional surtaxes would only find their way into the coffers of the northern war lords.[57]

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[55] Text in *China Year Book, 1926*, p. 1125.

[56] For the account of the Civil War see above.

[57] Correspondence Kuominchun to the Diplomatic Corps. *China Year Book, 1926*, p. 1142. *Ibid.*, pp. 1143 to 1146. Cantonese protests to American Minister MacMurray and to Senator Borah.

Under circumstances like these the Conference could accomplish but little. It adopted a unanimous resolution November 19, 1926, which read as follows:

"The delegates of the Powers assembled at this Conference resolved to adopt the following proposed article relating to tariff autonomy with a view to incorporating it . . . in a treaty which is to be signed at this Conference.

"The Contracting Powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1, 1929.

"The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law and further declares that the abolition of likin shall be effectively carried out by . . . January 1, 1929."[58]

This resolution augured well for the hopes of the Chinese, for this recognition of autonomy was for them "a milestone on the road back to independence."[59] Just as favorable for them was the fact that "in spite of the disappearance of the Chinese officials the foreign delegates persisted in their efforts to frame a tariff schedule that would yield enough revenue to enable China to start on the abolition of likin, to consolidate her debts and have something left for administrative purposes."[60] They agreed on a schedule which was intended to give China all the revenue the traffic would bear, but when they realized that they could not possibly negotiate a treaty to enforce this schedule, they gave up hope. They disbanded July 3, 1926, with the unanimous desire, "to proceed with the work of the conference at the earliest possible moment when the delegates of the Chinese Government are in a position to resume discussions with the foreign delegates of the problems before the conference."[61]

This latest development in commercial treaty regulations will by no means complete their story. Changes must come in the future. At present the Chinese are bitter in their feelings

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[58] Text, *China Year Book, 1926*, p. 1136.
[59] H. K. Norton: *Customs Conference, Asia*, August, 1926, p. 730.
[60] Strawn: *Op. cit.*, p. 11.
[61] Announcement of foreign delegation, *China Year Book, 1926*, p. 1141.

against the unequal treaties. But before concluding this phase of our study some observations are offered. Foreign nations have traded with China before they negotiated treaties with China. They negotiated the treaties to protect the trade interests. They felt the Chinese Government would not or could not protect them adequately and they sought protection in commercial relations. Protection is the prime motive back of their treaties. Secondly, these treaties are in force today (1927). But the Chinese feel that in protecting their own interests, the foreigners have denied China the sovereign right over her domestic policy. They feel that even though these denials might have been just in the past, they are no longer just. China is in a position to assume the responsibility of protecting those foreign interests herself, is eager to abolish the unequal treaties, and requests tariff autonomy as a measure to aid in bearing that responsibility.

V

Foreign-Controlled Chinese Revenues

Chinese finances are in a chaotic condition. There is no confidence on which China can secure credit. There is no strong central government to enforce the collection of revenues. If all the revenues would get to Pekin which are supposed to get there, the government could meet its needs, but so little is returned that the ordinary administrative expenditures amount to many times the income. With a deficit, there can not be enough money set aside for the service of China's foreign indebtedness. So to secure the payment of this service, the powers have maintained control of certain of the Chinese sources of revenue. We shall first consider all the sources from which the Chinese government secures revenue, and then study particularly those sources controlled by the foreigner.

Under the period of the empire, China's principal revenues were seven in number; land tax, tribute, regular or native customs, salt tax, maritime customs, likin and the miscellaneous fees, tenures, licenses and other taxes.[1] At present, the government receives its revenues from five principal sources: the Maritime Customs, the Salt Gabelle, the Native Customs, Wine and Tobacco Taxes and Stamp Duties. There are possibilities for receiving more from the likin, the income tax and the land tax.[2]

Maritime Customs	$73,581,297
Native Customs	13,021,079
Salt Gabelle	92,114,800
Wine and Tobacco	14,847,071
Stamp	3,052,600
Total	$196,616,847

The figures show the average returns to Pekin for the last five years. On paper it looks as if revenues should balance the

[1] Lee: *Currency Banking and Finance in China*, p. 130.
[2] Report of Financial Readjustment Commission. Quoted in Lee, p. 124.

total administrative expenditures of $197,000,000. A brief paragraph will reveal the actual divergence between revenue and expenditures.

The maritime customs are first and foremost among the financial resources of the Chinese government but, as will be shown later, every dollar of these customs is earmarked for some specific purpose. None of it is available for the use of the central government. Likewise the native customs are mortgaged to the hilt. The salt taxes used to be collected by the provincial officials but the Salt Gabelle was reorganized as an agency of the central government before the Revolution. Since 1913, it has been subject to foreign control. The greater part of its proceeds is used as security for loans. Of the $15,000,000 estimated collection of wine and tobacco taxes only about one-tenth reaches Pekin. Just about the same proportion of the stamp duties ever gets within the reach of the central officials. So out of the $196,000,000 revenues half goes to the service of foreign loans, about $50,000,000 disappears by the wayside, about $43,000,000 goes for military subsidies and note redemptions, leaving only $7,000,000 to pay the $197,500,000 administrative expenses.

In spite of this seemingly hopeless situation, China could balance its budget if it could only get what it is supposed to. Of $560,000,000 collected taxes in 1921, the provinces retained $80,000,000 for their own use. The central government did not receive a penny. No likin returns find their way to Pekin while an elaborate income tax yielded the tremendous sum of $10,311.69.[3]

It is not solely because of the meagerness of the revenues that the foreign powers have assumed control of these collections but also because they feared unwise expenditure of the funds at China's disposal.

The Martime Customs was the first taken over by the western powers. Prior to 1842, customs were collected by Hong merchants, acting for a superintendent. This superintendent had

[3] The figures are taken from Lee, *Op. cit.*, p. 131. If they are not absolutely accurate they present clear enough picture to appreciate the situation. There is no substantial disagreement among authorities.

to return a fixed sum to the provincial and central authorities. He collected as much as he could, returned the required amount, and stuck the balance in his pocket. As the foreigners were discriminated against, the British Government, as a result of the Treaty of Nanking, appointed commercial superintendents and consuls in each of the five treaty ports to control the customs. "This action, taken to secure the payment of the 21,000,000 taels indemnity, marks the beginning of the foreign interference with customs administration in China.[4]

The other countries followed suit and until 1851, the foreign consuls collected the duties from their respective nationals. Lack of uniform action caused the Chinese Government to resume its collection but, in 1854, in the throes of the Taiping rebellion, the central government found itself helpless.

The rebels forced the closing of the Customs House at Shanghai and for a time, no customs were collected.[5] The consuls felt that it was just that the merchants should pay some duty and of their own free will, they required their respective merchants to deposit bond for five per cent of the declared value of their imports and exports. This was found to be irksome to the Consuls and so they, with the approval of the British, French and American Ministers, made the agreement with the Shanghai Taotai—a refugee in the English concession—from which grew the modern Maritime Customs Administration.

The causes of this Customs Administration should be particularly noted. One writer asserts that, "the negligence of the Manchu government, the ignorance of western business methods, and the aggressive policy of the British"[6] gave rise to it. Another states that, "the foundations of the foreign customs were laid in the necessities of the Chinese government and not in the demand of foreign merchants that improved revenues be provided."[7] The facts are clear: while the Chinese previously administered the customs, they returned but portions to the central government and discriminated against the foreigners;

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[4] Chu: *Op. cit.*, p 145 and p. 60.
[5] Morse: *Op. cit.*, p. 367.
[6] Chu: p. 60.
[7] Morse: *Op. cit.*, p. 366.

while the foreigners administered it they discriminated in favor of themselves. The Taiping rebellion rendered the central government unable to collect any customs and this forced the foreigners to collect them.

Article 1 of the above-mentioned agreement of June 29, 1854, provided for the "introduction of a foreign element into the customs house establishment, in the persons of foreigners carefully selected and appointed by the taotai, who shall . . . give him efficient and trustworthy instruments wherewith to work."[8] Under this agreement the taotai appointed a board of three inspectors at Shanghai. One of these, Captain Thomas F. Wade, organized the Customs administration there. This organization at Shanghai was the only one in China until the meeting of the Tariff Commission in 1858.

The foreign representatives on the Tariff Commission appreciated the value of the Shanghai organization and wished to extend its system to all of China. The Chinese were agreeable to continue the system because they marvelled at the efficiency with which the foreigners collected the Tariff. This commission drew up a rule of trade which it incorporated in the Tientsin Treaty which provided first, that one uniform system should be enforced at every port; second, the that Chinese High Officer of the Customs "will be at liberty to select any British, French or American subject he may see fit to aid him in the administration of the Customs Revenue, in the prevention of smuggling, in the definition of port boundaries, or in discharging the duties of harbour master; also in the distribution of Light, Buoys and Beacons, the maintenance of which shall be provided for out of the Tonnage Dues."[9]

If there was to be a uniform system at every port, an Inspector General would have to be appointed. Mr. Lay received the position and under his administration of customs, stations were established at six other ports. He was succeeded in 1861 by Sir Robert Hart, the man who established the successful administration of the Maritime Customs during his half century tenure of office.

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[8] Morse, p. 367.
[9] Rule 10. Text quoted in Morse, p. 370.

Having noted the origin of the Maritime Customs, there shall be presented the organization and functions of this service as it exists at the present time. The Inspector General, with headquarters at Pekin, has the power to supervise and manage the whole customs service. He is an appointee of the Chinese Government[10] and his powers are only those granted in accordance with the treaty quoted above. Nominally, he is responsible to the Revenue Council but in the exercise of almost all his functions he has been left to his own discretion. He determines the personnel of the administrative force as he chooses and makes such regulations as he sees fit.[11] The Inspector General is responsible for collecting the revenues. At each port he is represented by a Commissioner who obtains receipts of amounts paid to the banks and reports this as revenue collected. Thus, the importer or exporter does not pay his duty directly to the commissioner but he pays it to the official customs bank attached to each office. The receipts from the bank are the Commissioner's evidence of customs collected.[12]

The Inspectorate General is responsible for the collection of revenues other than import and export duties on foreign shipped goods. By the peace protocol of 1901, it was charged with collection of native customs in a zone fifteen miles from the treaty port. The native customs are those on the junk traffic. Were they not subject to foreign control, they would be as irregular as ordinary bargaining could make them. In addition it collects the duties on the coast trade in foreign built bottoms, tonnage and harbor dues, regular likin within the fifteen-mile zone. It collects the transit dues—dues which are paid by the foreigners at the port of importation—which exempt them from all inland

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[10] He must be British as long as British trade predominates. MacMurray, 1898-2, p. 105.

[11] Chu: p. 164. There was one exception to this—Tsingtao. When Germany leased this port China agreed to appoint a German as Commissioner with a German staff. Germany was granted a special free list and retained twenty per cent of the customs. Japan succeeded to German rights but after the Washington Conference Tsingtao was put on the same basis as all other ports. See Willoughby, p. 141 for documentary proof.

[12] Chu: p. 164.

taxes.[13] It collected the special levy on opium (above the regular tariff) until the opium traffic became illegal in 1917.

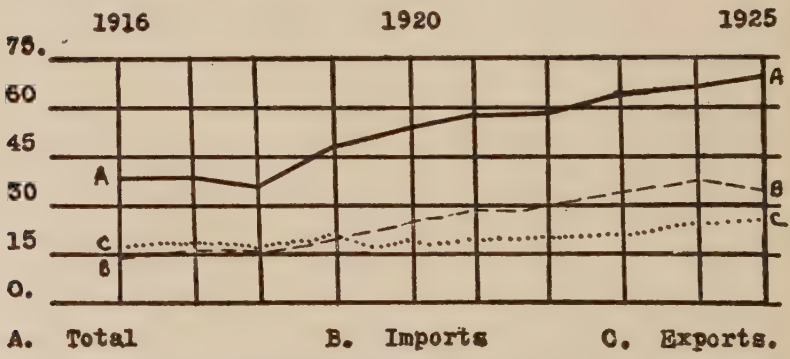
To aid in the collection there is the regular Revenue Department. It consists of an indoor staff of executives and clerks and an outdoor staff of inspectors and officers to prevent smuggling.

The table shows the collections since 1916:

YEAR	IMPORT	EXPORT	COAST	TONNAGE	TRANSIT	TOTAL
1916.....	15	16	2.3	1.1	2.1	37
1920.....	25	17	2.4	1.7	3.4	49
1923.....	32	22	2.6	2.4	3.1	63
1924.....	38	23	2.5	2.6	3.1	69
1925.....	36	24	2.6	2.6	3.6	70

Figures are millions of Haikwan Taels.

Chart showing collections since 1916



Per cent of total collections paid by each port:

Shanghai	37	Hankow	7
Tientsin	12	Kiaochow	4
Dairen	8	Canton	4
Others	28		

[13] The likin and regular customs are these inland taxes. Regular customs existed for centuries while the likin since 1858. There are stations along the routes of trade for collecting these taxes. Without paying transit dues, the merchants might have to pay plenty. There is no uniformity on likin levy but it is usually 3 per cent at point of departure and two per cent at each station. Within a province ten per cent is collected while between provinces maybe as much as twenty per cent. Chinese made use of transit pass exemptions by buying foreigners' names.

[14] All statistics from Customs Report, 1925.

The Inspector General deposits the funds in different banks and his signature alone makes possible disbursements. The loan agreements, which are based on the security of the Customs, stipulate in what banks he shall deposit the money. There has been controversy as to the deposit of the surplus. For safety's sake, the foreign banks have been preferred while the Chinese government has demanded that preference be given to Chinese government banks. Then it can place charges on the revenues and withdraw items for government expenses.[15]

However, the funds are really disbursed before they are collected. Administrative expenditures such as salaries, harbor and light improvements, wages, property, upkeep, must be deducted from the gross collections. The remainder serves as security for many loans. Listed in order of priority they are as follows:

A. "Loans secured directly on the Revenue.
   1. 4 per cent Gold Loan of 1895.
   2. 5 per cent Gold Loan of 1896.
   3. 4½ per cent Gold Loan of 1898.
   4. Indemnity of 1901.
   5. Reorganization Loan 1913.

B. On the revenue surplus.
   1. Third Year Loan of the Republic (1914).
   2. Fourth Year Loan of the Republic (1915).
   3. Consolidated Domestic Loan Service.
   4. $96,000,000 Loan."[16]

In 1923 the customs only reached as far as B.3, and there is no possibility of their reaching beyond that point. If they did the powers would object to their being used for those purposes. They would insist that some of their loans in default should be met rather than using the surplus to pay off the domestic obligations represented by B.3 and B.4. The chart shows vividly the surplus available after loan obligations have been met:[17]

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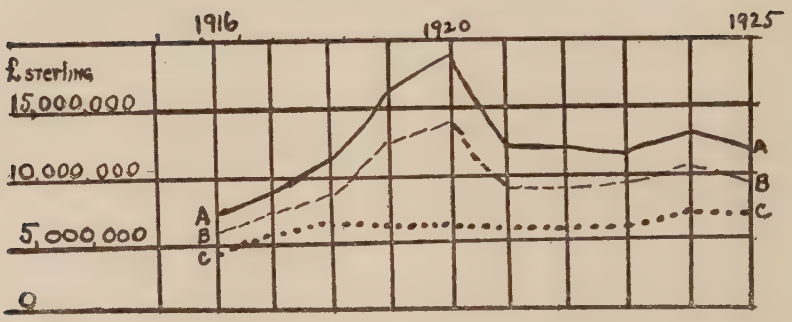
[15] Chinese Government: Bureau of Economic Information. February 5, 1923. Statement of Sir Francis Aglen. See also Koo speech at Limitation of Armaments Conference. *Senate Document*, p. 747.

[16] Information Bulletin: *Op. cit.*, February, 1923.

[17] Maritime Customs: Foreign Trade, 1925., Chart 1. A. Gross Collections. B. Net. C. Amounts paid on loans.



The Maritime Customs are overburdened, but they render excellent service. In their administration, there were employed (1914) 1357 foreigners and 6054 Chinese.[18] The foreigners hold the positions of greater responsibility and they have rendered most efficient service. Bonds secured on the Customs are the safest and most stable of Chinese investments, due to the honest efforts of the Inspectorate General to protect the funds with which they are secured. The Maritime Customs is the Gibraltar of stability in the Chinese ocean of financial chaos.

The revenues from the Salt Gabelle have been put under foreign control. Prior to 1909, the central government fixed the rates of duties, and appointed the Salt Commissioners who were responsible to the Viceroys, provincial governor and the Minister of Finance. In spite of the possibilities of returns from this government monopoly, it appears that "never more than 13,000,000 dollars were remitted to Pekin in one year."[19] Then in 1913, in accordance with the terms the Reorganization Loan, the Salt Administration was reorganized and a Foreign Chief Inspector appointed. "He shall advise concerning 1st, methods of collection and deposit in the Chinese Government Salt Revenue Account of duties, dues and payments of every description connected with Salt and the expenditures connected therewith; 2nd, arrangements for supply of salt in different provinces; 3rd, arrangements for storage transportation and sale of salt and relations between government officers and district Inspectors

[18] Chu: *Op. cit.*, p. 159.
[19] *China Year Book, 1923*, p. 757.

He shall publish the reports of the Administration and devise measures for its improvement.[20]

As soon as this reorganization was affected and foreigners installed in the administration, other loans were made with the Salt revenues as security.[21] In addition to the Anglo-French Loan of 1908, the Crisp Loan of 1912 and the Reorganization Loan of 1913, the Hukuang Railroad Loan of 1911 and the Japanese Group Advances of 1917, 1918 and 1920 are secured on the salt revenues. The revenues, vary from year to year because of the uncertainity of the military situation and consequent irregularities in collection. At any rate in 1925, after meeting administrative expenses, there was a net credit in the group banks amounting to $73,634,000.[22] Of this, $20,861,000 was immediately paid to discharge the loan obligations. Of the remainder some $23,000,000 represents sums either retained locally or by provincial authorities or military commanders. The evidence proves that since the introduction of foreign management salt revenues have increased greatly; loans secured on these revenues are bona fide investments. With an efficient use of the surplus China has an aid in its way out of its financial difficulties.

Summarizing the foreign controlled revenues of China several significant facts stand out. These revenue systems resulted from a demonstrated inability of the Chinese Government to control its sources of revenue. Again out of an average annual collection of $196,000,000 revenues from all sources, $178,000,000 came from these two services. Finally, these revenues offer the only security for Chinese loans. Those who seek tariff autonomy will have to continue these services or prepare adequate substitutes for them. Without them, China would have no credit with the rest of the world.

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[20] Regulations for appointment of Foreign Adviser. Article II, Annex to Reorganization Loan.

[21] If the Maritime Customs fail to provide anough for the service of the Anglo German Loan of 1898 and the Indemnity of 1901, these have first rights to the Salt Revenues.

[22] *China Year Book, 1926*, p. 510.

VI

Foreign Trade and Foreign Investments

In spite of, or because of these controls of commercial relations and revenue, a substantial commerce has grown up between China and the rest of the world. This chapter will analyze this commerce.

CHINA'S FOREIGN TRADE

YEAR	NET IMPORTS	NET EXPORTS	TOTAL	EXCHANGE VALUE OF TAEL. U. S. GOLD
1880	79,293	77,883	157,177	
1890	127,093	87,144	214,237	
1900	211,070	158,996	370,067	
1910	462,964	380,833	843,798	
1915	454,475	418,861	873,336	.62
1916	676,406	481,797	998,204	.79
1917	549,518	462,931	1,012,450	1.03
1918	554,893	485,883	1,040,776	1.26
1919	646,997	630,809	1,277,807	1.39
1920	762,250	541,631	1,303,881	1.24
1921	906,122	601,255	1,507,377	.76
1922	945,049	654,891	1,599,941	.83
1923	923,402	752,917	1,676,320	.80
1924	1,018,210	771,784	1,789,995	.81
1925	947,864	776,352	1,724,217	.84

Figures are in thousands of Haikwan Taels.[1]

In the nineteenth century, opium, cotton goods, woolens, and metals constituted the bulk of Chinese imports. In 1867 for example, opium made up forty-six per cent of the value of all foreign imports, cotton manufactures twenty-one per cent, woolens ten per cent, metals two per cent and the remaining was sundries. Their sundry purchases included fish, coal, kerosene oil, indigo, glassware, cigarettes, rice, sugar, timber and raw cotton.[2] The quantities of each of these articles was very small due to the meager Chinese purchasing power, the peculiar Chinese wants and the unfavorable trading facilities.

[1] *Customs Returns, Foreign Trade, 1925*, p. 124.
[2] Morse: *Op. cit.*, p. 292.

By 1925, considerable changes had taken place in China's import trade. By an analysis of the chart, on the next page, one finds that opium has completely disappeared as an article of Chinese import.[3] Cotton goods constitutes the leading item of import and represent 16.55 per cent of value of all imports. Sugar ranks second and raw cotton third. The raw cotton is of longer staple than is grown in China and is used to supply the wants of Chinese spinning mills. Kerosene oil is needed in China for illuminating purposes but it is recent that trade in this commodity has become important. The Chinese import rice because many of their own fields have been destroyed by bandit soldiers and rice cultivation has been displaced by the more profitable poppy cultivation. Of the metals, the import of copper is most valuable. They use copper for their coins, lead for packing tea and tin for tin foil. They need cotton yarn for their factories, of which there are increasing numbers in China, while coal, timber and dyes are demanded by modern industries. Tobacco, paper, flour, cigarettes, machinery, and chemicals each contributed more than one per cent of the total value of China's foreign import trade.

A few observations are pertinent concerning future Chinese imports. It is likely they will continue to increase. The year 1925 was extremely unfavorable because of "political unrest, piracy and brigandage, different kinds of local taxation, high costs of living and production, impossibility of disposing stocks to upcountry buyers, economic boycott, strikes, and the dislocation of railway traffic.[4] In spite of these things, trade almost maintained its 1924 level. With the coming of peace should come increase in trade.

There is a potential purchasing power with the Chinese somewhere for it is manifested in the T1. 89,826, 649 import of sugar. Sugar is not a necessity and yet the Chinese were able to buy vast quantities of it. Secondly, the character of imports is likely to change in some respects. China is in a stage of industrial development and is bound to need machinery and electrical

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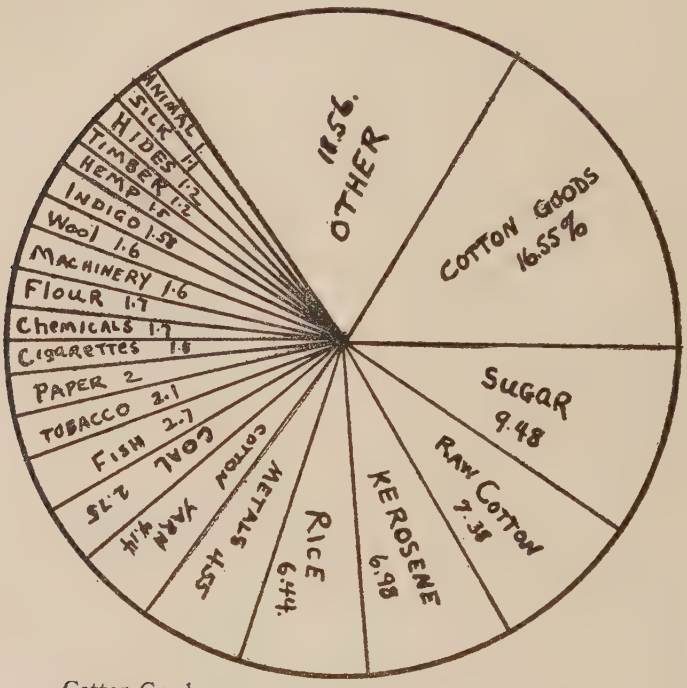
[3] Imports of opium are illegal and therefore not listed.
[4] *Maritime Customs, Foreign Trade, 1925*, p. 1.

Table and Chart of Chinese Imports, 1925:



Cotton Goods	156,902,933
Sugar	89,826,964
Raw Cotton	68,965,177
Kerosene	66,117,023
Rice	61,041,505
Metals	43,160,471
Cotton Yarn	39,198,513
Coal	26,082,501
Fish	25,502,455
Tobacco	19,905,621
Paper	19,080,977
Cigarettes	17,768,202
Chemicals	16,472,730
Flour	15,970,596
Machinery	15,577,087
Wool	15,509,013
Indigo	15,950,410
Hemp	14,735,828
Timber	12,191,515
Hides	11,442,760
Silk Goods	10,469,563
Animals	10,073,103
Others	175,920,212
Total	947,864,944

Chart 6: *Maritime Customs Report. Foreign Trade of 1925.*

equipment. Decreasing imports of manufactured products such as cotton goods, flour, cigarettes, silk goods and paper will be accompanied by increasing imports of materials with which the Chinese can make these things themselves.

Tea and silk were the main staples of the old export trade of China. In fact they were ninety per cent, until 1889, of everything that China had to sell, while beans, bristles, cotton, firecrackers, fibres, hides, minerals, straw board and wool made up most of the sundry ten per cent. However, when India and Ceylon began to compete in the tea trade and Japan entered the silk industry, Chinese exports had to take on a diverse character. By 1925, we find raw silk still at the head of the list of exports (see the following chart) but tea has fallen to seventh place. Beans, and their products (sauce, paste, oils and cakes)[5] are shipped chiefly from Manchuria and they form nearly one-fifth Chinese exports. Buffalo, cow, goat, horse and sheep hides along with fox, marmot, raccoon, sable and weasel furs come third. These are followed by raw cotton. Exported cotton is the kinky short staple variety and is used in the manufacture of blankets in the mills of the United States and Japan.[6] Groundnuts or peanuts and their products are sold in large quantities by the Chinese. So are seed cakes. They export silk piece goods, chiefly those made by hand, and the excellence of these products is well known in the United States.

China supplies the rest of the world with a billion eggs per year,[7] though there are no large poultry farms. The small family farms supply these eggs chiefly for Japan. Chinese cereals, coal, wool, tin and timber go to the same market. Exports of wood oil are usually consigned to American paintshops and shipments of bristles to American or British brush factories. Cigarettes and cotton goods will undoubtedly find greater places in the Chinese exports of the future. Aside from these most important articles of export there are others which are of particular interest to the foreign powers. For medicine, there

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[5] Arnold: *China's Post War Trade, Annals*, November, 1925, p. 88.
[6] Arnold: *Commercial Handbook of China*, p. 281.
[7] Arnold: *Commercial Handbook*, p. 281, ff.

Table and Chart of Chinese Exports:[8]

Raw Silk	153,012,865
Beans	141,802,768
Skins	30,166,533
Raw Cotton	29,845,234
Groundnuts	25,260,937
Silk Piece Goods	23,202,322
Tea	22,145,688
Cereals	22,061,360
Coal	20,014,371
Seeds	18,486,770
Eggs	17,995,798
Wood Oil	17,500,104
Cigarettes	15,245,029
Wool	14,076,550
Tin	12,064,645
Cotton Goods	11,767,482
Bristles	9,556,995
Timber	8,908,223
Fibres	7,771,973
Others	175,517,280
Total	776,352,937

[8] Figures from *Maritime Customs Foreign Trade of 1925*, Chart 7.

is anise, cassia, camphor, castor oil, ginger, licorice. Narcissus bulbs, fans, fireworks, hats, ink, lacquer, pewter ware and rugs complete the list.[9]

Practically every nation in the world has some commercial interests in China and her products, but some have much more extensive interests than others. Two charts show the value of each particular nation to the Chinese, as a market and a source of supply. In 1925 Japan supplied China with thirty-one

DIRECT IMPORTS INTO CHINA FROM OTHER NATIONS
(1916 AND 1925)[10]

		1916	1925	
Japan	160,490,720	12	13.95	279,755,611
Hongkong	153,347,620	6.12	2.5	176,311,082
United States	70,353,029	G. B. 13	3.5	142,513,422
Great Britain	53,823,799	U. S. 10	5.6	93,137,777
British India	32,754,841	H. K. 28.6	G. B. 9.6	48,809,844
Dutch Indies		J. 29.9	U. S. 14.7	37,376,792
Germany			H. K. 18.2	32,510,643
Others	64,498,413		J. 31%	134,675,422
Totals	535,268,426			965,090,593

DIRECT EXPORTS FROM CHINA

Japan	119,485,650			186,337,037
United States	112,922,258			143,153,127
Hongkong	72,080,705		Others 43	114,714,974
France	65,514,205			66,077,303
Russia	34,918,546			57,961,714
Great Britain	27,261,959	Other 37		47,643,145
Korea			H. K. 15	334,781,874
Singapore		H. K. 25		23,785,624
Turkey			U. S. 18	20,584,348
Germany		U. S. 15		16,427,493
Others	49,614,043			74,836,258
Totals	481,797,366	J. 23	J. 24	776,352,937

[9] Arnold: *Op. cit.*, in *Annals*, p. 88.

[10] Figures from *Maritime Customs Report, Foreign Trade of 1925*, Charts 10, 12 and 13.

TONNAGE CARRIED BY FLAGS OF DIFFERENT NATIONS

Great Britain	35,840,573			42,942,484
Japan	24,233,835			35,081,116
China	23,397,109		13	33,002,936
United States	4,548,584			5,859,851
Germany		6	26	2,486,057
Norway		26		2,422,556
Others		28	28	6,407,625
Totals	88,020,101	40%	33%	128,202,625

per cent of her imports while Hongkong, United States, Great Britain, British India, Dutch Indies and Germany followed in the order named. Japan, in the same year absorbed twenty-four per cent of China's exports while United States, Hongkong, France, Russia, Great Britain, Korea, Singapore, Turkey and Germany bought in lesser quantities. The important position of Hongkong is due to the fact that it is a transshipping port. Direct exports to Hongkong are destined to other ports of the world and imports from Hongkong have really originated somewhere else. In a smaller way, Japan is a midpoint at which many goods are transhipped both ways between China and other points. So the statistics give Hongkong and Japan a greater share than is really their due and conversely, give to the United States a lesser. Mr. Arnold thinks that Japanese and American trade has increased so much faster than the British that "making allowance for American trade through Hongkong and Japan, we may credit America with twenty per cent of China's imports and thirty per cent of its exports."[11] Thus it seems that Japan, Great Britain and the United States are nearly on a plane of equality in the aggregate value of their respective trades with the Chinese Republic.

However, in the carrying of trade between China and foreign countries, British and Japanese interests are much greater than those of other foreign nations. This is made clear by the following chart:

Shipping service rendered by the powers suggests a consideration of China's income account.[12] By income account we mean

[11] In *Annals, Op. cit.*, p. 90.
[12] Morse: *Trade and Administration*, p. 308.

the balancing of China's international liabilities with her international assets. Liabilities include, 1st, the imports of bullion and merchandise plus the goods smuggled in; 2nd, maintenance of legations, consulates, and students abroad; 3rd, charges on loans, and indemnities and investments in China; 4th, profits of foreign residents and merchants in China; 5th, shipping and insurance charges that must be paid to foreigners. On the asset side of the ledger, China can list, 1st, land and sea exports of merchandise, bullion, and coin; 2nd, moneys spent in China by foreign travellers; 3rd, emigrants remittances; 4th, money and materials advanced in railroads and other investments[13] and 5th money spent in China for the upkeep of foreign legations, consulates, garrisons, courts, mission schools and hospitals. In the past, China has bought more goods and services than it has sold and it has sought loans and investments from the foreign nations and nationals to make up for its deficit. Foreigners made these loans and investments so that their chief interest "commerce" might be preserved and encouraged.

In turn, these loans and investments by foreign nations constitute another of their primary interests in China. An accurate statement of Chinese foreign loans is practically impossible but they are either War and Indemnity Loans; General Government and Administrative Loans, or Railroad and Industrial Loans.

Before China's war with Japan it had practically no foreign debt. It was able to meet its obligations by tax levies or temporary borrowing. But when China lost this war it had to seeks foreign markets for funds with which to meet the obligations imposed upon it. Before discussing loans to China, it is pertinent to observe that they are not purely commercial transactions. They are quasi-political. They are negotiated by banks or other financial institutions with the consent and support of the governments involved.[14] It has been practically impossible to distinguish between the public and private obligations of the Chinese government for the private business contracts have

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[13] These are future liabilities.
[14] Cheng: *Op. cit.*, p. 218.

exerted quite as much political significance as have the formal treaties.[15]

The lending Powers have operated in the main through particular banking or investment agencies in China and have applied their diplomatic and official support to these agencies. Thus the British, have used the Hongkong and Shanghai Banking Corporation as their chief agency; the Japanese the Yokohama Specie Bank; the French the Banque de L'Indo Chine: the Germans the Deutsch-Asiatische Bank and the Americans the International Banking Corporation.[16] Their financial negotiations have been supported by their respective governments.

A second proof of the quasi-political character of China's loans is in the fact that "Spheres of Interest" have determined the source of loans. China would seek money from the power in whose leased area, port, concession or settlement the money was to be spent. It was usually forced to do so by treaty obligations imposed by the will of those capitalists who were eager to reap the profits derived from developing China's resources.

As part of security for loans to China, the Powers have exercised "control" over certain of Chinese revenues, or "control" over the manner in which the proceeds of the loans were to be expended. These controls are supposedly of a purely financial class but by means of peculiar wording and an arbitrary interpretation of control clauses, financial control has taken on a political complexion. The nature of the control will become manifest in the subsequent discussion of particular loans.[17]

Loans to China can best be classified according to whether they have been made to the Ministry of Finance or to the Ministry of Communications and whether they are secured or unsecured.

The secured loans of the Ministry of Finance consist first of the War Indemnity Loans. By the Treaty of Shimonoseki, Japan forced China to agree to pay an indemnity of 200,000,000 Kuping taels.[18] Thirty million more were added when Japan

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[15] Willoughby, p. 484. MacMurray, Introduction.
[16] Lee: *Currency, Banking and Finance in China*, Chapter 8.
[17] Willoughby, p. 487.
[18] *Treaties, Customs, 1908*, p. 1318.

returned the Liao Tung Peninsula so China was faced with a debt of 230,000,000 taels. As it was already financially embarrassed, it had to seek loans abroad. It contracted three loans to meet this obligation:

NAME OF LOAN	AMOUNT BORROWED	OUTSTANDING DEC., 1925	RATE	YEAR DUE
Russo French.....	400,000,000 Fr.	164,438,290	4	1931
Anglo German.....	16,000,000 £	7,466,550	5	1932
Anglo German.....	16,000,000 £	11,196,050	4½	1943[19]

The first loan was issued at ninety-four and a half and was secured by the first claim on the Maritime Customs and, in case of inadequacy, by the Imperial Russian Government. The second issued at ninety-nine, and yielding ninety-four to the Chinese, constituted a second claim on the Customs and the Chinese Imperial Government guaranteed the adequacy of the security.[20] The third loan yielded but eighty-three to the Chinese Government. It constituted a third charge on the Customs and a first charge on the likin tax of Soochow, Hung Hse, Kiukiang and East Chekiang and the Salt Likin of Ichang, Hupeh and Anhui.[21] Note: foreign banks negotiated these loans. They stipulated the purpose of the loans and controlled the security on which the money was loaned.

As a result of the outrages committed against foreigners by the Boxers, indemnities of 450,000,000 Tls. silver or about $338,000,000 gold were levied by the Treaty Powers against China.[22] China had to borrow the entire sum from foreign nations, England, America, France, Italy, Russia, Japan, Portugal, Spain, Holland, Sweden and Norway, each furnishing a proportionate share. These loans paid four per cent interest and are to be repaid in annual installments to 1945. The remainder of the Maritime Customs, the Native Customs and the Salt Gabelle formed the security for these loans.[23]

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[19] MacMurray, 1895-6 and 1895-7. Text of Loan Agreements.
[20] *China Year Book, 1923*, p. 717.
[21] MacMurray, 1896-2 and Willoughby, p. 490.
[22] Exchange then one tael equal $0.754 gold.
[23] MacMurray, 1901-3. See footnote for proportions.

The other definitely secured debts of the Ministry of Finance are General Government and Administrative Reorganization Loans. Not until 1911, was China compelled to make foreign loans for the purpose of meeting her ordinary running expenses or for effecting a reorganization of her administrative services and the reform of her currency. After the establishment of the Republic, the financial necessities of the new government at Pekin became urgent and while the negotiations with a group of British, German, French and American banks were pending, the London firm of C. Burch Crisp & Co., loaned £5,000,000[24] on the security of the salt revenues. The purpose of this was to repay administrative and industrial loans. Then in 1913, the five power[25] consortium (the Hongkong and Shanghai Banking Corporation, the Deutsch-Asiatische, Banque de L'Indo Chine, Russo Asiatische and Yokohama Specie) loaned £25,000,000 with interest at six per cent; principal and interest to be repaid in 1960. They were issued at ninety to yield to China no less than eighty-four. The net proceeds were to be used solely for the following purpose:

1. Payment of indemnities due by the Chinese Government.
2. Redemption in full of outstanding provincial loans.
3. Payment on due date of shortly maturing liabilities including claims of foreigners for losses coming out of the Revolution.
4. Disbandment of troops.
5. Current administrative expenses.
6. Reorganize Salt Administration.
7. Other agreed administrative purposes.

This loan was secured on the Salt Administration.

The remaining group of secured loans of the Ministry of Finance include Austrian and German Loans secured on Pekin Octroi and Title Deeds Tax. The payment on these latter loans has been deferred on account of the fact that the war claims

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[24] *China Year Book, 1923*, note F, p. 718. Original agreement was for £10,000,000. After the Powers reprimanded China for borrowing from a private agency China cancelled the second £5,000,000. MacMurray, 1912-9 and 1913-5.

[25] America was in the original group but President Wilson advocated its withdrawal because "the conditions of the loan seem to us to touch very nearly the administrative independence of China itself." Willoughby, 498 ff.

between China and the Central Powers have not been adjusted. They remain as liabilities against the Ministry of Finance but some compensation is due China to offset them. To visualize the secured loans to the Ministry of Finance, we add the following table:

Indemnity Loans	£90,694,032:196 and 164,438,290 Fr.
Reorganization Loan	25,000,000
Crisp Loan	5,000,000
Due Germans	102,000
Due Austrians	4,266,314:10
Totals	£125,062,346:296 and 164,438,290 Fr.[26]

The unsecured debts of the Ministry of Finance amount to $312,581,832 Chinese silver outstanding December 31, 1925.[27] Of this amount the Japanese have loaned $195,079,597.21 for such purposes as mining and telegraph construction, forest conservation, interest on railway loans, and purchase of military equipment. The mines, the property of the Telegraph Administration, Treasury notes and Government bonds have been offered for security, but the security is far inadequate to meet the needs of the service of the debt.[28]

British loans of $36,015,742 represent advances for aeroplanes, wireless and indemnities for shipping losses and for meeting obligations of other maturing liabilities. The interest rates on these loans varies from six per cent per year to 98 per cent per month and treasury notes form the most important security.

France has loaned $861,211.59 for iron industries on the same security and Belgium has advanced $418,591 for Chinese Educational purposes.

The United States has loaned $29,218,145.49 which is inadequately secured on Wine and Tobacco License fees, goods tax in the Honan, Anhui, Fukien, and Shensi provinces and on treasury notes. This money has been used "for industrial

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[26] *China Year Book, 1923*, p. 717. Converted into Chinese silver dollars this amounts to $1,029,046,148.435 considering the rate £1 equal to $8.00 and franc equal to .165. These figures are issued by the Chinese Ministry of Finance as secured loans outstanding to foreigners in December 31, 1925.

[27] *China Year Book, 1926*, p. 452. $1.80 silver equals $1.00 gold. Calculated on basis of $2.00 silver to $1.00 gold, grand total equals $388,198,574.14.

[28] *China Year Book, 1926*, p. 453a.

purposes including the internal development of China, the strengthening of the reserves of the Bank of China and the Bank of Communications,[29] for Grand Canal Conservancy and for Educational Expenses.

Austria, Denmark and The Netherlands hold the bonds of the remaining unsecured loans to China.[30]

The investments with the Ministry of Communications are chiefly the Railway Loans which have been made by the powers. Since 1911 these loans have been direct government obligations because the central government then exchanged government bonds for original private railroad bonds. These loans had been originally made in connection with concessions or "agreements conferring on the foreigner certain rights of financing, building and managing of railroads." These railroad grants may be simply in the nature of underwriting contracts but may go so far as to deprive China of almost all control and profit in the several undertakings and lead to political control by the power in the given sphere.

Practically all these agreements contain "control" causes or means by which the foreign financier can maintain a great amount of control over his investments. Safeguards are needed to protect funds invested in China. These financial safeguards consist of a first mortgage upon the railway and a certain share in the managements of the line. This is to prevent fraud, to secure efficiency and guarantee an adequate return.

Or control may mean direct management by the foreign owners, if the railroad is nominally a private foreign and Chinese joint Stock Company in which the Chinese in the national course of things had but little share. Thus, these control clauses are financial in character.[31]

All railways and loans are nominally, as far as foreigners are concerned, financed, managed or controlled by private citizens. The control provisions constitute nothing else but foreign expert supervision or management to secure adequate profits. That is to

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[29] Chicago Bank Loan Agreement, MacMurray, 1916-13.
[30] *China Year Book, 1926*, pp. 452 to 462. Complete list of loans.
[31] Overlach: *Foreign Financial Control*, Introduction.

say, the provisions confer legally upon the foreigner no rights to political control. The British control provisions are purely financial in character as is evidenced in the agreement of October 10, 1898, between the British syndicate and the Administrator General of the Railways of North China acting under the authority of the Imperial Chinese Government.

"Article 1. The Corporation agrees to issue on behalf of the Administration general a sterling loan for the amount of £2,300,000.

Article 3. This loan shall be a first charge upon the security of the permanent way rolling stock and entire property, with the freight and earnings of the existing lines between Pekin and Shanhaikwan, and on the freight and earnings of the new line under construction.

Article 4. The principal and interest of this loan are guaranteed by the Imperial Government of China. 'The Administrator General retains control of the railway lines so long as the principal and interest of this loan are regularly repaid'.

Article 6. Chief Engineer shall be a British subject and the principal members of the Railroad staff shall be capable and experienced Europeans who shall be appointed by Administrator General of the Railroads. A capable and efficient Railroad Accountant shall organize and direct keeping of railroad accounts.

Article 8. Receipts and earnings of the lines shall be paid into the credit of the Railroad Administration with the Hongkong and Shanghai Banking Company."[32]

But some foreign powers control these loans for political purposes. Their banks are politico-financial agents supported by their diplomats and their control clauses are arbitrarily interpreted according to their political policies as well as their econonomic exigencies.[33] For example, note the control clauses of the agreement between the Russo Chinese Bank and the Chinese Government for the construction of the Chinese Eastern.

The company was formed to construct the railway and to exploit mining, industrial and commercial enterprises in connection with it. Shares in the Chinese Eastern may only be bought by Chinese and Russians. It shall retain possession of the

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[32] Rockhill: *Treaties of China*, No. 46.
[33] Overlach: *Foreign Financial Control in China*, p. 4.

railroad during the course of eighty years from the day of opening of traffic. Materials required for construction and repair of the line will be exempt from taxes. The railroad is to be conducted subservient to the requirements of the Siberian Railway. In the event of a difference of opinion arising between the two railroads the Chinese Eastern shall submit to the decision of the Russian Minister of Finance. Russian letters shall be carried free. All Russian troops, naval and military and munitions of war, moved by the Russian Government by this railroad must be conveyed directly across the border. The preservation of law and order on the lands assigned to the railroad and its appurtenances shall be confined to police agents appointed by the company. The capital of the Company shall be formed by the issue of 5,000,000 rubles of shares and the remainder in bonds. The Russian Government shall guarantee interest on the money and the amortization, acting through the Russo Chinese bank."

These provisions indicate the political nature of the control of the Chinese Eastern. It is Russian owned, controlled by the Russo Chinese bank, a state controlled institution. Only the bondholders are protected and those by the Russian government; the road is policed by military railway guards; and Russian soldiers are supreme in the railway zones.[34]

These two agreements indicate extremes in control provisions. The British controls are purely financial, imposed in the interest of the investor. The Russian controls are political as well, imposed in the interest of the government. The German[35] control was designed to further plans of exploitation, while the French[36] and the Japanese[37] more nearly approached the aggressiveness of the Russians.

As to the amounts of these loans made to the Ministry of Communication by foreigners, there was outstanding September 30, 1925, an excess of $300,000,000[38] on adequate securities. Of this

[34] Rockhill: *Op. cit.*, No. 33. Overlach, p. 78. Kent: *Railway Enterprise in China*, p. 45.
[35] Overlach: *Op. cit.*, p. 147.
[36] *Ibid.*, p. 130.
[37] *Ibid.*, p. 170.
[38] Converted on rates of $1.00 gold to $2.00 silver, the sum is $339,184,040.98. Average on $1.00 gold to $1.90 silver equals $314,347,429.00. *China Year Book, 1926*, p. 462.

the British have advanced about $165,000,000, the Japanese and the French $8,000,000.[39] Of the $296,000,000 outstanding on inadequate securities, $110,000,000 is held by the British, $22,000,000 by the United States, $28,000,000 by the Japanese and $17,000,000 by the Belgians. On the map is indicated the location of railroads in which the various foreign nations are interested and it will be noticed that they form the core of the spheres of interest.

So far has been indicated approximately $1,900,000,000 Chinese silver, of foreign investments as follows:

Ministry of Finance.	Secured	$1,029,046,148.43
	Unsecured	312,581,832.36
Min. of Communications.	Secured	314,347,429.82
	Unsecured	246,055,876.60
Total		$1,902,031,287.21

To this sum, must be added the foreign capital that is invested in private enterprises. Subjects of treaty-states have "the right to frequent, reside, and carry on trade, industries, and manufactures, or pursue any other lawful avocation in all ports, cities, and towns of China which are now or may hereafter be opened to foreign residence and trade". There are approximately a half million foreigners who have taken advantage of this provision. In pursuance of this right they have not only established business firms of every description, but have also erected many factories, using the most modern machinery. They have invested in soap factories, cotton mills, flour mills, iron and steel mills, paper mills, match, tea, cigarette, beancake factories, silk filatures, banks, tramways, waterworks, and electric power plants. These with the missions, schools in the interior bring the total of foreign investments in China in excess of two and a half billion dollars. This represents a very real and vital interest of the foreign powers in China, and explains why they are interested in the maintenance of tariff control as a means of protection to themselves. They have been able to administer the tariff so as to

[39] Figures are on average values.

promote their trade and protect their loans and naturally they hesitate to surrender their privileges to the Chinese.

There remain to present the interest which, though important in themselves, are secondary to the question of tariff autonomy. However they are essential to an analysis of the political situation and are therefore discussed. These are represented by territories, extraterritoriality, the postal administration, opium traffic, and foreign missions. A summary of the interests of each particular power will conclude the second phase of this study.

VII

Territorial Interests of the Powers

Territorial acquisitions, leases, spheres of interest, treaty ports, concessions and settlements are the terms which indicate these interests of the foreign powers in China. To explain them is to briefly review the story of the diplomatic intercourse between China and the West.

The territorial acquisitions on the part of the powers date back to 1842. In that year Great Britain secured Hongkong[1] as part of the reward for winning the Opium War. It displaced China as the sovereign over this island and has had jurisdiction over it ever since. During the last half of the nineteenth century the powers acquired no less than nine other dependencies; that is, they assumed the actual ownership and control of these dependencies, which once belonged to China. By treaties in 1850 and 1860 Russia acquired the immense[2] area lying north of the Amur River and east of the Ussuri, thus giving Russia the seacoast down to the upper eastern corner of Korea.[3] In 1881, Japan by subtle diplomacy asserted her sovereignty over the Liuchiu Islands and in the same year Russia, on the pretense of quelling a rebellion, took over Western Ili.[4] France completed her absorption of Tongkin and Annam in 1885[5] and Great Britain retaliated by assuming Northern Burma in 1886[6] and Sikkim four years later.[7] Portugal forced recognition to its title to Macao in 1887 although it had been[8] in practical possession of the island since the sixteenth century. Finally, by the treaty of Shimonoseki, April 17, 1895,[9] Japan obtained possession of Formosa and the

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[1] *Treaty of Nanking*, Article I.
[2] Morse, Vol. 2, p. 338, and Willoughby, p. 267.
[3] Hertslet, Vol. 1, pp. 462–471, Article I.
[4] Hertslet: *China Treaties*, No. 85, p. 483.
[5] Hertslet: No. 46, pp. 296–300.
[6] *Ibid.*, No. 15, pp. 88–90.
[7] *Ibid.*, No. 17, pp. 92–94.
[8] By the Lisbon protocol, March 26, 1887, Footnote 2, Willoughby, p. 268.
[9] MacMurray, 1895-3, p. 18.

Pescadores Islands. Had it not been for the intervention of France, Germany and Russia, Japan would have retained the Liaotung Peninsula which it originally demanded from China. These powers demanded its retrocession to China but they recognized the independence of Korea. These were acquisitions of Chinese dependencies and of lands neighboring on China.

The powers sought to attack the territorial integrity of China proper by means of leased areas and spheres of interest rather than by actual acquisitions. Germany was the first of the powers to lease a part of Chinese territory. It had been looking for a suitable reward for its part in the retrocession of Liaotung and it used the murder of two Jesuit missionaries as the pretense to its reward. When, in November 1897, two German priests were murdered in Shantung, that government dispatched a fleet to Kiaochow, and demanded the lease of Kiaochow as well as redress for the murder. China, her helplessness revealed by the Japanese War, could do nothing but sign a convention with Germany, March 1898[10] which provided:

1. Kiaochow shall be leased to Germany for ninety-nine years with a fifty km. surrounding neutral zone.[11]

2. The Imperial Chinese Government will abstain from exercising rights of sovereignty in the ceded territory during the term of the lease.[12]

3. Chinese ships shall enjoy the same privileges as ships of nations friendly to Germany in the harbor.[13]

4. Germany shall not sublet the area.[14]

5. China shall grant railway and mining rights in Shantung.[15]

6. Germany shall afford equal protection to Chinese within the leased area.

Russia did not like Germany's lease of this naval base because the Czarist government itself had designs on this base as an ice free port. The czar had consented, unknowingly, to Germany's

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[10] MacMurray, 1898-4, p. 112.
[11] Article 2.
[12] Article 3.
[13] *Ibid.*
[14] MacMurray, 1898-4, Article 5.
[15] *Ibid.*, Section II. See below.

project and so when faced with the fait accompli he sought for immediate recompense in the Liaotung Peninsula.

He seized Port Arthur and Talienwan, December 1897, by means of a naval force. He leased this area March 27, 1896,[16] just two weeks after the Sino German convention had been signed. By the agreement:

1. Russia leased Port Arthur and Talienwan for twenty-five years with privilege of renewal.[17]
2. It assumed military and civil administration of the area during the term of the lease.[18]
3. It provided a Chinese administered 100 km. neutral zone.[19]
4. It made Port Arthur a closed port, for the use of Russian and Chinese vessels only but it opened Talienwan (Dairen) for the use of all trading vessels regardless of nationality.[20]
5. Russia engaged herself to erect buildings, barracks or garrisons which might be required for its activities.[21]

By a subsequent agreement, May 7, 1898,[22] it received the right to connect the Trans-Siberian Railroad in North Manchuria with a point in Liao Tung and reserved railroad and mining concessions in the neutral zone for itself.

France followed Russia in demands for leased areas in China. It leased for ninety-nine years the port of Kouangchouwan, opposite the island of Hainan as a naval station with a coaling depot. The convention ratified by China, February 19, 1900,[23] gave France, along with the ninety-nine year lease, the rights to administer the leased area;[24] to fortify it;[25] and provide for navigation along its coasts.[26] Kouangchouwan has the same commercial status as any of the open ports of China.[27]

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[16] MacMurray, 1898-5, p. 119.
[17] Articles 1 and 3.
[18] MacMurray, 1898-5, Article 4.
[19] Article 5.
[20] Article 6.
[21] Article 7.
[22] MacMurray, 1898-9, p. 127.
[23] MacMurray, 1898-10, p. 128.
[24] Article 3.
[25] Article 4.
[26] *Ibid.*
[27] Article 5.

"Compelled by the driving force of the balance of power, Britain could not stand idle. To compensate for the damages incurred by the gains of other powers, Great Britain likewise stretched out her hands and snatched leases necessary for self-defense and for the preservation of the balance of power".[28] On June 9, 1898, [29] it obtained from China as an extension of Hongkong territory, "and necessary for its proper defence and protection" a lease for ninety-nine years of certain islands, in Deep Bay, and Mirs Bay and a portion of the mainland, Kowloon, opposite Hongkong. July 1, it leased Wei hai wei for so long a period as "Port Arthur shall remain in the occupation of Russia. The territory leased shall comprise the island of Liu Hung, and all the island in the bay of Wei hai wei, and a belt of land ten miles along the entire coast line of the Bay. Within the above territory leased Great Britain shall have the sole jurisdiction".[30]

Italy, attempted to mimic the other great powers by demanding the lease of Sanmen Bay in Chekiang. But she came too late. The Empress Dowager was in command of things at the court and she ordered the Yangtze viceroys on the coast to make preparations to resist with force. Italy was cowed and so withdrew.[31]

These original leased areas have been modified or changed to a certain extent. By Article 5, of the Treaty of Portsmouth,[32] Japan succeeded Russia in the lease of Port Arthur and Dalny. China assented to this succession December 22, 1905, and extended Japan's lease to a term of ninety-nine years by the Treaty of May 25, 1915. As a result of the World War, Japan took over the German lease to Kiaochow but returned it by the agreement concerning Shantung which resulted from the Washington Conference.[33] Today there is in China, the French, British and Japanese leased areas, as are described above.

We shall note certain characteristics of the leased areas. First they are marked by strategic bases. The powers have strong

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[28] Bau: *Foreign Relations of China*, p. 42.
[29] MacMurray, 1898-11, p. 130.
[30] MacMurray, 1898-14, p. 152.
[31] Bau: *Op. cit.*, p. 43.
[32] MacMurray, 1905-8, p. 522.
[33] Text, *China Year Book, 1923*, p. 1179.

fortified naval bases and coaling stations at their command. Second, the neutral zone is established to protect the strategic bases. Third, the foreign powers have exclusive jurisdiction over these areas. The military administration and civil jurisdiction are so complete that fugitives from Chinese justice have to be extradited as if from a foreign jurisdiction. Notwithstanding the grant of jurisdiction, it is to be emphasized, that, in the fourth place, China does not waive her sovereignty over the leased area. It is so expressly stipulated in the agreement with Russia:

"this act of lease, however, in no way violates the sovereign rights of His Majesty, the Emperor of China to the above mentioned territory."[34]

In other agreements such retention is stated or implied by the necessity of imposed conditions. For example, the lessee states are to enjoy their tenancy only on good behaviour and must restore the territory to China at the expiration of the term of the lease.[35]

Modern China frowns upon these leased areas because they are detrimental to the peace, self-defense and self-preservation of the Republic.[36] At the Peace Conference, at Versailles, the Chinese Government made know its desires for their restitution. "As the prolongation of the foreign control over the leased territories constitutes a continued lordship, whose injurious effects tend from day to day to increase, the Chinese Government feel in duty bound to ask for the restitution of these territories."[37] China's request was not granted and so Dr. Koo, repeated this request at the Limitation of Armaments Conference. He pointed out the disadvantages of the leased areas:

1. They prejudiced Chinese territorial and administrative integrity because they were situated at strategic points along the Chinese littoral.

2. They hampered China's national defence because they constituted virtual imperia in imperio.

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[34] MacMurray, 1898-5, p. 119.
[35] Bau, p. 333.
[36] *China Year Book, 1923*, p. 1067.
[37] Questions for Readjustment submitted by China to the Peace Conference.

3. Because of shifting conflicts of interest of the powers, they had involved China in conflicts of their own.

4. They served as points d'appui for developing spheres of interest.

In concluding his request he observed that the Chinese Government would be prepared to respect and safeguard the legitimately vested interests of the different powers within those territories.[38] The French agreed to restore Kouangchouwan on condition[39] that its restoration be part of a general restoration and Mr. Balfour stated that England would restore Wei hai wei on the same condition.[40] He felt Kowloon was necessary for the security of Hongkong and remarked that "it must be dealt with in a different spirit from those leased territories which had been acquired for totally different motives". Japan notified the Chinese that "it had no intention at present to relinquish important rights it has lawfully acquired at no small sacrifice.[41]

Post-conference negotiations for the return of Wei hai wei have come to naught because of the political instability of the Chinese government.[42] Wei hai wei, Kouangchouwan, Port Arthur, Darien, Kowloon remain as areas in China which are leased by the foreign powers.

Spheres of Interest—While the powers were extorting leased areas from the Chinese they were designating for themselves spheres of interest. These spheres of interest are portions of territory "wherein a nation expressly or impliedly declares that it will permit no other nation to exert political influence and that itself will lead in the exploitation of natural resources.[43] In China the spheres are called "spheres of interest" and not "spheres of influence". A sphere of influence usually infers definite political control of a positive nature, while a sphere of interest infers primary economic privileges.

The first sphere of interest in China was secured by Germany. By the same agreement by which it secured the lease of Kiaochow

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[38] *Senate Document*, p. 538.
[39] *Ibid.*, p. 540.
[40] *Ibid.*, pp. 139 and 543.
[41] *Ibid.*, p. 541.
[42] *China Year Book, 1926*, p. 594.
[43] Bau: *Op. cit.*, p. 337.

in 1898 it secured "the right to build two railway lines inward from Tsingtao in the province of Shantung. These lines were to be built by a Sino German Company for the purpose of developing trade and communications. Within a distance of thirty li from each side of the roadway, the Germans could hold and develop mining property, and the German subjects were to be afforded special Chinese government protection in their work".[44] The Convention further provided "the Chinese government binds itself in all cases where foreign assistance, in person, capital or material, may be needed for any purpose whatever within the Province of Shantung, to offer the said work or supplying of materials in the first instance to German manufacturers and merchants engaged in undertakings of the kind in question".[45] These provisions make clear what is implied in the statement that Shantung was made a German sphere of interest.

Russia sought Manchuria as its sphere of interest. As early as 1896, Russia was able to obtain from China formal and public consent to extend the Trans-Siberian Railroad across the northern end of Manchuria to Vladivostok. A new agreement between the Chinese Government and the agent of Russia, the Russo-Chinese Bank, dated September 8, 1896,[46] provided for the construction of the Chinese Eastern. The agreement stated that the company should administer lands necessary for construction, operation and protection of the road and it permitted Russia to send in military police to guard railroad zones". Russia sent many soldiers to Manchuria in the guise of railroad guards and became so aggressive as to presume on the rights of China's covereignty in Manchuria. The powers protested but could acsomplish nothing to stop Russia until Japan drove the Russians out of South Manchuria by force. The Russians, through railroad concessions, maintain a sphere of interest in North Manchuria and are no doubt hoping to extend it to Outer Mongolia.[47]

The French sphere lies wholly in the south and borders their

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[44] MacMurray, 1898-4, Section 2, p. 115.
[45] Section 3, p. 116.
[46] MacMurray, 1896-5, p. 74.
[47] Willoughby, p. 451. The Russians are continuing their activities in Mongolia in spite of their promises to China concerning concessions.

Indo Chinese colonial possessions. In 1885, China agreed to apply to the French for material in case she should construct railways in that region. In 1895 China by treaty agreed to call upon French manufacturers and engineers for the exploitation of its mines in the provinces of Yunnan, Kwangsi and Kwangtung and to allow the French to continue their railroads in Annam into Chinese territory.[48] On March 15, 1897, China promised France that it would never cede Hainan to any other foreign power[49] and a year later the Foreign Office assured France that the Chinese provinces bordering on the Tongking frontier would never be alienated to any other power.[50] Following the lease of Kuangchouwan Bay, France secured concessions to build and manage railways in the southern provinces of the French sphere.

To counterbalance the growing influence of Russia in Manchuria, of Germany in Shantung and France in the South, Great Britain sought and obtained a non-alienation promise with regard to the Yangtze Valley.[51] On the basis of this, Great Britain has built up for itself a claim to special consideration with regard to the granting of railway and other concessions in this region. It protested the Belgians' building the Pekin-Hankow road and it entered into agreements with Russia[52] and with Germany[53] wherein each contracting party recognized the prior claim of the other in its respective sphere. Thibet forms another British sphere of interest. Since 1888 Great Britain controlled the internal administration and foreign relation, and in its trade conference of 1894, it negotiated directly with Thibet and ignored China's suzerain rights. At the outbreak of the Revolution in 1911 the Chinese troops withdrew from Thibet and in 1914 the country split into outer and inner sections. The part next to China recognized China's suzerainty but the outer part is recognized as autonomous. England engages to settle any trouble that might arise between Thibet and China.[54]

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[48] MacMurray, 1895-5, Article 5, p. 29.
[49] MacMurray, 1897-2, p. 98.
[50] MacMurray, 1898-6, p. 123.
[51] MacMurray, 1898-1. Note from Tsungli Yamen, p. 104.
[52] MacMurray, 1899-3, p. 204.
[53] MacMurray, 1900-5, p. 266.
[54] *China Year Book, 1919*, p. 717.

Japan was the last of the powers to enter into the scramble for spheres of interest but it has emerged with the lion's share. It has three definite spheres today. By the treaty of Portsmouth, Japan acquired the Russian rights in Manchuria and Liaotung. China agreed to this transfer and to open sixteen specified places in Manchuria as places of international residence and trade, when the Japanese and Russian troops should be withdrawn.[55] Japan has insisted on keeping these troops in Manchuria to protect its interest there. It has additional railway concessions in this region. In connection with the building of the South Manchurian Railroad Japan has opened mines, developed agriculture, deepened harbors, and maintained schools and hospitals there.

Its interests in South Manchuria have often run counter to Russian interests in the north so that at times serious situations have threatened. After these two countries refused to neutralize the railroads of Manchuria in accordance with the proposal of Secretary Knox,[56] they agreed in 1910, to maintain the status quo.[57] In 1915 came the famous twenty-one demands which disclosed Japan's policy regarding her spheres of interest in Manchuria and Mongolia.[58] It demanded (1) the extension of the lease of Port Arthur, Dalny and South Manchuria branch of the Antung and Mukden Railroad to ninety-nine years, (2) the right to lease or purchase land for buildings in South Manchuria for trade, manufacture or agriculture, (3) the rights to reside, travel and engage in business in South Manchuria, (4) coal and iron mining concessions, (5) first right to loan on the security of Manchurian taxes, (6) right to furnish advisors or instructors on political, financial, military and police matters. These demands were inculcated in the treaty and by a subsequent exchange of notes, Japan took away China's original right to rebuy the Chinese Eastern at the end of thirty-six years. It reserved the right to dictate what ports should be opened.

But this was not all. In 1916, after some Japanese were killed in a Manchurian town, Japan asserted the right to station police

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[55] MacMurray, 1905-8, p. 522.
[56] Willoughby, p. 316, ff.
[57] MacMurray, 1910-1, p. 803.
[58] MacMurray, 1915-8. This is the text of the twenty-one demands, p. 1220.

wherever she felt it necessary in Manchuria and Mongolia and to supply officers for Chinese troops there.[59]

All the railroad and mining concessions of Manchuria have been granted to Japan and it has unified its activities there in the establishment of the South Manchurian Railroad which is under the supervision of the Japanese Governor General of Shantung. It is this Company which manages the activities enumerated above. The Japanese Consuls are ex-officio officials in the railroad system so if one has a grievance against the railroad, a railroad official is his judge. Thus, it is shown Japan has a definite sphere of interest in Manchuria.

Moreover Japan had succeeded to Germany's rights in Shantung. By Article 156 of the Treaty of Peace:

"Germany renounces in favor of Japan, all her rights, titles, and privileges, particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which she acquired in virtue of the Treaty and of all other arrangements relative to the province of Shantung".

Although China was forced to recognize any "matter upon which the Japanese government may hereafter agree with the German Government relating . . . to the province of Shantung",[60] it protested at the Peace Conference against Germany's transfer of Shantung to Japan. Failing in its protest, it refused to sign the Versailles treaty. At Washington, due to the good offices of Mr. Hughes and Mr. Balfour, Japan agreed to restore the leased area of Kiaochow to China and to renounce all "preferential rights with respect to foreign assistance in persons, capital and material stipulated in the treaty of May 6, 1898, between China and Germany.[61] Japan has surrendered her treaty privileges relative to Shantung, but practically its influence remains paramount.

Other Japanese interest in China are chiefly in Fukien province, but "there is nothing beyond the non-alienation declaration of China in 1898[62] to support the contention of the Japanese that

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[59] MacMurray, 1917-2, p. 1347.
[60] MacMurray, 1915-8, p. 1216.
[61] Annex I. *China Year Book, 1923*, p. 1174.
[62] MacMurray, 1898-8, p. 126.

this province constitutes a Japanese Sphere of Interest". When China guaranteed Japan in 1915 "that bay, harbor, or island along the coast of China may be ceded or leased to any Power,"[63] it was generally understood that it related to Fukien. "The Japanese Government would consider it a highly unfriendly act should China, at any time, give to a foreign power other than itself a foothold of any kind of military or political significance in the province of or on the coast of Fukien".[64] Outside of Fukien, Japan has tried to extend its influence into the Yangtze Valley. It has demanded railway concessions which were refused because of conflicts with British but it demanded and obtained the right to cooperate in control of Hanyehping Iron Works.[65]

Having examined the origin and location of the spheres of interest there remains to emphasize the important characteristics of these spheres. First, they are in the environment of the leased areas which serve as the strategic bases. Second, railways are the means by which the powers exploit the natural resources and dominate the economic life of the spheres. Russia's Chinese Eastern, Japan's Southern Manchuria, France's Tangking-Yunnanfu and Pekin-Hankow, and Great Britain's Shanghai-Nanking and Canton-Kowloon lines form the core of their respective spheres. Third, with the spheres come the claim of the right of priority or first option in loans and concessions. The fourth feature leading to spheres of influence[66] is the declaration of non-alienation. Practically in all regions, the Powers interested made China declare that she would not alienate in any way the regions in which they were interested. France obtained the declaration of non-alienation regarding the Island of Hainan,[67] Great Britain regarding the Yangtze Valley,[68] Russia concerning Outer Mongolia and Japan concerning Fukien,[69] Shantung,[70] and

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[63] Japan originally wanted the insertion of the word "third" before power. Willoughby, p. 412. See *Official History of Sino Japanese Negotiations of 1915.*
[64] Willoughby, p. 412.
[65] MacMurray, 1915-8, p. 1225. Group 3, Article I.
[66] Note the term "spheres of influence." It includes a more prominent political interest while "spheres of interest" indicates economic priority.
[67] MacMurray, 1897-2, p. 98.
[68] Hertslet, Vol. I, No. 23, p. 120.
[69] MacMurray, 1898-8, p. 126.
[70] *Ibid.*, 1915-8, p. 1216.

the Chinese Coast.[71] Finally, the Powers have made international agreements pledging to respect the spheres pertaining to each. On September 2, 1898, Great Britain and Germany covenanted to define and respect their spheres of interest;[72] April 28, 1899, Great Britain and Russia did the same thing[73] and June 10, 1907, Japan and France engaged to support each other "in the regions of the Chinese Empire adjacent to the territories where they have rights of sovereignty, protection or occupation."[74]

The disadvantages of these spheres to the Chinese are manifest. They constitute a serious hindrance to the economic development of China. Foreign powers have a monopoly in respect to foreign loans and these develop China as they see fit rather than as China needs. There have been instances where the powers, failing to develop a project themselves, have refused to let other nations undertake the enterprise.[75] The spheres of interest vitiate the principle of equal opportunity of trade. Preferential or exclusive rights preclude the possibility of competition on an equal basis, and as the powers develop railroads and industries in a given region, national trade in that region is bound to increase. Third, "the spheres of interest menace the well being of the nations and hence of the world. They tend to build up in China rival economic kingdoms, competing with one another for supremacy and aggrandizement. Thus they not only grind down the integrity and independence of China in the mill of their economic imperialism and struggle, but induce among themselves antagonism and hatred, giving rise to international friction and possibly to war.[76]

The Chinese have objected to these spheres from their inception. The Boxer uprising was a protest against them. They furnished one of the chief reasons why the Righteous Harmony Fists wanted to kill every foreigner they could see. The United

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[71] *Chino Japanese Negotiations*, Official Statement, p. 21.
[72] MacMurray, 1900-5, p. 262.
[73] Hertslet, Vol. I, No. 104, p. 586.
[74] MacMurray, 1907-7, p. 640.
[75] Bau, p. 346.
[76] Bau, p. 346.

States protested against them in its enunciation of the Open Door Doctrine. John Hay's circular letter of September 6, 1899, addressed to London, Berlin, St. Petersburg and later to Tokio, Rome and Paris, asked each power:

1. Not to interfere with treaty port or vested interest in its spheres.
2. In its sphere, to apply the Chinese Treaty Tariff to all merchandise.
3. To levy equal railroad and harbor dues to all.[77]

All the powers consented to these proposals but Russia remained quiet on the third point. Thus Hay recognized each sphere but secured the consent of the powers to keep the spheres open to the trade of the world on as nearly equal basis as possible. Then came the Boxer uprising and at the height of it, July 3, 1900, Mr. Hay sent the second circular note which announced the policy of the United States to be:

"To seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."[78]

This policy has been declared repeatedly by the United States and affirmed by the British, German, French, Japanese, Russian, Austrian, and Belgians at different times.[79] These affirmations did not entirely halt the aggressions of the powers but did keep them from going farther than they otherwise would have gone in seeking spheres of interest.

More recently the Chinese have made the abolition of the Spheres of Interest one of their prime objectives. At the Peace Conference the Chinese delegates expressed the hope "that the interested Powers will, out of their sincere regard for the sovereign rights of China and the common interests of all nations having trade relations with her, make a declaration, each for itself to the

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[77] U. S. Foreign Relations, 1899. Text and Replies. MacMurray, 1900-2, p. 221.
[78] *Foreign Relations, 1900*, p. 299.
[79] MacMurray, 1900-2, p. 221, ff.

effect that they have not any sphere of influence or interest in the Republic of China nor intend to claim any".[80]

The Paris Conference accomplished nothing for China in this matter, but a powerful economic agency had arisen that bids death to the spheres of interest policies. The Spheres of Interest had thrived on particular loans from the bankers of individual nations. But the bankers of England, America, France and Japan united in a Consortium to "pool all options of the powers and the concessions in which no substantial headway has as yet been made."[81] This means that although the existing concessions will remain intact, future prior claims can not exist.

This Consortium paved the way for the favorable action which was taken by the Washington Conference towards the spheres. When the Chinese spokesman asked the Powers to disavow all claims to special interest Mr. Balfour remarked "so far as Great Britain was concerned, they were things of the past.[82] He referred to the fact that the Consortium had killed them. The Conference adopted a resolution to the effect that the "Signatory Powers will not support any agreements by their respective nationals designed to create spheres of influence"[83] and the resulting nine power treaty incorporated this statement.[84]

The railroads, mines and loans by the powers have built up spheres of interest in the past, and as no international action has been taken concerning them since the Washington Conference, they still exist. The public opinion of the world condemns them and it is a matter of time until they shall have passed away.

The other territorial interests of the powers are in the open ports. In these ports only, foreign subjects may reside for the purpose of carrying on their mercantile pursuits.[85] Here the consuls dwell and here only are goods subject to treaty tariff and the right to a transit pass. Foreigners can neither dwell nor

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[80] The Shantung Question: Submitted by China to the Paris Peace Conference, p. 71.

[81] Bau, p. 348. Text of Consortium Agreement. *China Year Book, 1923*, p. 773. Japan tried to exempt Manchuria and Mongolia but in vain.

[82] *China Year Book, 1923*, p. 1064.

[83] *China Year Book, 1923*, p. 1122, Article 14.

[84] *China Year Book, 1923*, p. 1064.

[85] Treaty of Nanking, Article 2.

establish headquarters for trade in any save the ports that are declared open either by treaty or governmental decree. As commerce with foreign nations has grown, so has the number of ports through which foreigners can carry on their trade. Today there are forty-nine customs stations, thirty-three other ports open to international trade, and twenty-five ports of call.[86] In some of these ports there are foreign-residential areas. These areas were given to the foreigners for their exclusive use. They are not portions of the main city but were outlying undesirable districts near the cities in which the foreigners conducted their trade. These areas include, as distinct types, concessions[87] and "settlements". These terms are often used interchangeably but they should be distinguished. The settlement at Shanghai, for example, has the foreign residential area delimited by boundary lines. The land within these limits remains upon the registers of the Chinese land office and the Chinese are not disturbed in the possession and occupation of any property which they may have in the area. Foreigners are not permitted to acquire fee simple titles to lands within the Settlement but may obtain perpetual leases."[88]

The Chinese government expropriates the Chinese property in the area set aside for the concession. It leases the entire area to the foreign power, which pays an annual land tax to the Chinese Government. Chinese are not supposed to hold lands but they do so by paying for a borrowed foreign name. Foreigners obtain subleases to their particular piece of land from their own consular authorities, and proceed to administer the area in their western way. They build roads, dredge harbors and conduct a municipal administration by taxes which they levy and collect themselves. The Consul of the lessee power is the highest official in the Concession, but in the British concessions, he is assisted by an elected municipal council.

At Chefoo there is a concession in a class by itself. There the area is set aside by tacit agreement for foreign quarters. Resi-

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[86] *China Year Book, 1926*, for list of these.

[87] Concession is also used in different sense indicating name of an economic grant by Chinese Government to foreign company.

[88] Willoughby, p. 209.

dents bought their own land, made their own roads and have maintained order and cleanliness through the force of public opinion. They have elected committees to assess and carry on administrative work.

At Yochow there is another special kind of concession. The Chinese Government expropriated the land required, laid out roads and sold the lots by auction, reserving an annual ground rent of a substantial amount. Municipal work and police are under the joint control of Yochow territorial Taotai and the Commissioner of Customs. All expenses are charges of the Chinese Government and the community is burdened neither with taxation nor with the task of governing.[89]

In ports in which foreign residential areas have been voluntarily opened by the Chinese, foreigners are permitted to obtain leases of land for residential and business for not longer than thirty years purposes.

In none of the areas reserved for foreign residence, has China formally surrendered her sovereignty. Foreigners living within them enjoy nominally the same rights and privileges extended to foreigners living in parts of the cities other than the settlements. Native courts, and administrative organs exist in the foreign areas and the Chinese collect the land tax on foreign-owned property there. Article I of the 1858 Sino American Treaty stipulates that "the Emperor of China . . . has by no means relinquished his right of eminent domain or dominion over said lands and waters (granted in concessions)". But by treaties the Chinese government has given permission to the foreigners concerned to set up local administrative agencies for police purposes, sanitation, making of roads and building regulations.

These agencies levy taxes, the proceeds of which go for the performance of these local administrative tasks. It is significant to note these agencies are administrative and not political. They are not agencies of a sovereign state. They have no courts to enforce their orders. They are created to conduct the affairs of the ordinary city government. These administrations rule according to their own western standards and safeguard the

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[89] Morse, p. 216, ff.

foreign resident from inconvenience which might result from having to adjust himself to the sway of the Oriental.

At present the Chinese demand the return of these concessions,[90] but the foreigners oppose any such action. They are the only places in China which evidence an orderly and systematic administration. Even the Chinese recognize this because there is not "a bank or vault in any of the foreign concessions in China today, which is not full of valuables deposited there by Chi ese merchants, bankers and citizens for protection against inevitable confiscation and destruction if the property could be reached by the military".[91]

This presentation of the foreign territorial interests in China will be concluded with a discussion of the Legation Quarter in Pekin. This section was set aside because of the dangers with which the foreign diplomats were faced during the Boxer uprising. In it, no Chinese may live and none but Legations may control it. The Legations maintain permanent guards,[92] they police and control the roads of the area, and tax to secure money for their financial needs. The powers maintain military guards on the railroad from Pekin to the sea, so that there shall be no danger to the lives of their representatives, because of severed communications. So the Legation Quarter at Pekin must be included with the settlements and concessions in the open ports, with the spheres of interest, with the leased areas and with the ceded territories, in order to complete the list of the territorial interests of the Foreign Powers in China.

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[90] See below for British Pact of February 20, 1927.
[91] Strawn: *Op. cit.*, p. 21.
[92] MacMurray, 1901-3, Article 7, p. 278.

(The map shows the places that have been mentioned in this chapter.)

CHINA

Cities shown are those with foreign concessions. Heavy lines are railroads.

VIII

Extraterritoriality

Extraterritoriality may be defined "generally as the exemption of a foreigner from the operation of the local law of a country he may visit. For example, if a citizen of the United States residing in China, be sued or arrested he can invoke the jurisdiction of our consuls".[1] Sixteen nations have these exterritorial privileges. This system is one of their important interests. We want to note its origin, its basis, its extent, its disadvantages and the move for its abolition.

As early as 1689 China and Russia entered into a treaty which agreed that "subjects of either state who should break the frontier bounds or be guilty of brigandage should be handed over to their respective officials for punishment.[2] This is a modified reciprocal exterritoriality but does not mark the beginning of the system as it now exists.

It originated with the Chinese and foreign conflicts in 1842. Before this time Chinese authorities would seldom stoop to interfere with disputes between "barbarians." When the Chinese courts did act, their actions were marked by summary jurisdiction, corporal punishments and filthy prisons. But Number 13 of the General Resolutions issued in pursuance of the Treaty of Nanking, definitely provided that British subjects were to be tried by British officials according to British laws and that in mixed civil cases between British and Chinese, there was to be joint adjudication.[3] The following year, the United States negotiated a treaty with China which made an explicit provision for the exercise of extraterritoriality:

"Subjects of China who may be guilty of any criminal act towards citizens of the United States shall be arrested and punished by the Chinese authorities according to the laws of

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[1] Strawn: *Op. cit.*, p. 21.
[2] Cheng: *Modern China*, p. 178.
[3] *Customs Treaties I*, p. 388. *Report of the Commission on Extraterritoriality* hereinafter referred to as "*Report*", p. 9.

China, and citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the Consul or other public functionary of the United States.[4]

For civil cases "the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction".[5] Controversies occurring in China between citizens of the United States and subjects of any other Government (they) shall be regulated by the treaties existing between the United States and such Governments, respectively, without interference on the part of China".[6]

To these principles of exterritoriality:

1. Cases between nationals of the same power shall be tried in their own court.

2. Criminal cases involving Chinese and foreigners, shall be tried in court of the defendant's nationality.

3. Civil cases involving Chinese and foreigners shall be subject to joint adjudication.

4. Cases involving nationals of two different foreign powers shall be settled by treaties between those powers

must be added another which provided for the presence of an assessor for the foreigner who is a plaintiff. As declared in the Pekin Treaty between United States and China:

"When controversies arise between citizens of the United States and subjects of His Imperial Majesty which need to be examined and decided by the public officers of the two nations, it is agreed between the governments that such case shall be tried by the proper official of the nationality of the defendant. The properly authorized officer of the plaintiff's nation shall be freely permitted to attend the trial. He shall be granted all proper facilities for watching the proceedings in the interests of justice. If he so desires, he shall have the right to present, to examine, and to cross examine witnesses. If he is dissatisfied with the

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[4] *Customs Treaty*, Article 21, p. 685.
[5] *Ibid.*, Article 24.
[6] *Ibid.*, Article 25.

proceedings, he shall be permitted to protest against them in detail."[7]

All these principles have been inculcated in subsequent treaties treaties with Austria, Belgium, Brazil, Denmark, France, Germany, Italy, Japan, Mexico, the Netherlands, Norway, Peru, Portugal, Russia, Spain, Sweden[8] and Switzerland.

Thus the origin and bases of territoriality is in a series of specific treaties with various states. It is not based on any a priori right of the alien powers, as Caleb Cushing argued,[9] nor is it based on favored nation treatment. Only those powers have exterritorial privileges to whom the Chinese have definitely conceded them. Nationals of non-treaty powers have the same legal status in China as the Chinese themselves.

It is on the basis of these treaties that the nations have established courts in China. All have consular courts, presided over by a consular officer, alone or in some cases assisted by assessors. In addition France and Italy have a special judge for China. Norway has a consular judge at Shanghai who must have received the same legal training as judges of the ordinary courts in Norway. Japan has specially trained judges, and the United States and Great Britain have higher courts with a professional staff. The United States Court for China, created in 1906, is an attempt to unify procedure and action in American cases. It has original jurisdiction in civil cases involving more than $500 and in criminal cases where" the punishment for the offense charged exceeds $100 fine or sixty days imprisonment", and appellate jurisdiction of any cases from a Consular Court. It supervises consuls in discharge of their duties relating to estates of decedents. Sessions are held in Shanghai, Canton, Tientsin, and Hankow but its jurisdiction extends throughout China.[10]

His Brittanic Majesty's Supreme Court for China,[11] is a tribunal intended to supply" a more dignified and technically correct mode of administering justice than can possibly be supplied

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[7] *Customs Treaties I*, p. 738.
[8] Complete list, *Report*, pp. 113 and 114.
[9] Willoughby, p. 16 ff.
[10] XXXIV. *Statues at Large, Part I*, p. 815. Willoughby, p. 31.
[11] Created by the British Order in Council, October 24, 1904. Hertslet, *China Treaties II*, p. 834.

by the consular courts".[12] It is given exclusive original jurisdiction, civil as well as criminal, for the district of the consulate of Shanghai, and concurrent jurisdiction, with the Provincial Consular Courts in other parts of China. It is the one court in China where jury trial is guaranteed.

These foreign courts in China apply the same systems of law as are in force in the territorial limits of the exterritorial powers concerned. In so doing, they, of course, "at times apply in civil cases, local customs, general principles of equity, and in conformity with the rules of international law, certain alien laws".[13] Certain cases infer special laws and the consul has to adapt the law to the case. Under some of the systems, diplomatic and consular officers, are authorized to promulgate, with the force of law, regulations in police, municipal, harbor, and other matters. The Chinese have objected to his system of applying foreign law and have insisted that the foreign court should apply local Chinese law.

Prisoners sentenced by the foreign courts are in some cases sent to foreign prisons in China and in other cases to prisons beyond the territorial limits of China, the deciding factor in most cases being the length of the sentence. The Chinese prisons have long been infamous for their horrors and so the United States, Great Britain, France and Japan have provided prison facilities for their nationals in China. The other powers either make arrangements with any of the four powers above-mentioned, or with the foreign settlement or concession authorities, for the use of their prisons, or they send prisoners sentenced by their courts to prisons beyond the territorial limits of China.

Appeals from exterritorial courts go either to higher courts in China (as the case of the British Supreme Court) or to higher courts in neighboring regions (as the case of Japan, the Netherlands Court at Batavia, and the Portuguese Court at Macao). In the cases of Belgium, Denmark, Italy, Norway, Spain and Sweden, the superior jurisdiction is in Europe. Final appeals in the United States get to the Supreme Court through the Federal

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[12] Willoughby, p. 35.

[13] *Report*, p. 12 and p. 118 ff. United States Revised Statutes Section 4086 and Section 4, Act of June 30, 1906.

District Court of California and final appeals with the other powers, excepting Japan and the Netherlands—lie to the highest competent tribunals located in their respective capitols.[14]

There are in China 250,000 foreigners and 6,500[15] firms subject to exterritorial jurisdiction and 218,000 of these people and 4,700 of the firms are Japanese. Most of the remaining is made up of British, American, French, and Portuguese. Each nation has a consular court for each of the eighteen consular districts but some of the smaller nations do not maintain regular courts but authorize their consuls to handle the cases as they come up.[16]

Other nations have had exterritorial privileges in China but no longer have them. Germany and Austria lost them because of their defeat in the World War. By Article 234 of the St. Germain treaty, between Austria and the Allied and Associated Powers, Austria abrogated previous treaties and conventions with China. The Sino German agreement of May 30, 1921, provided "that the subjects of each of the contracting parties, when residing in the territory of the other, would be placed under the jurisdiction of the local tribunals". A Chinese presidential mandate of September 23, 1920, suspended the Russian exterritorial privileges (which had not been exercised since the Soviet government displaced the Czarist Government) and by the treaty of May 31, 1924, the Soviet Government expressly "agreed to relinquish the rights of exterritoriality.[17] The citizens of the states formed by the dismemberment of Austria and Russia aer also under Chinese jurisdiction. There are 83,235 foreign persons and 1,270 foreign firms in China subject to Chinese jurisdiction.[18]

The foreign courts so far discussed exist for the protection of the foreigner who is a defendant in a case. There exist Mixed Courts, designed to protect the interest of the foreigner who is a plaintiff. These are based on treaty provisions similar to the one cited which grant the right of an assessor for the plaintiff to be

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[14] *Report*, pp. 12 and 13.
[15] *Report*, p. 119.
[16] *Report*, pp. 25 and 19.
[17] *China Year Book, 1926*, p. 770.
[18] *Customs, Foreign Trade, 1925*, p. 219.

present. In these courts, a Chinese official is the magistrate, the Chinese law is applied. The assessor is a junior officer of the Consulor Staff, who looks after the interest of the national.[19] These Mixed Courts meet irregularly, with the exception of the one established by the Chinese in the International Settlement at Shanghai.

Here, certain days are set aside for its meetings and the foreign consuls take their turns at attending as assessors. The docket is so arranged that American cases are tried the day the American Consul is there, British cases, the day the British is there, etc. The assessor must approve the decision but the jurisdiction of this court is absolute in questions of life, liberty and property.

Since 1911 this Court has had a peculiar status. Before that time, the Shanghai Taotai appointed the magistrates and paid their official salaries and controlled their policies. The Court was a Chinese institution. But when the city became independent of the Manchu rule, the Consuls issued a proclamation which confirmed the magistrates in their positions and which made the Mixed Court a foreign instrumentality. Their action was based on no treaty right but was made necessary by the exigencies of the situation. The Chinese have several times petitioned for its return to Chinese authorities but the powers have consistently refused. Thus, there is in Shanghai, a foreign controlled Mixed Court, which "handles more cases than any other Court in the world", in the interests of foreigners who are plaintiffs.

The Chinese point to disadvantages of this exterritorial system. Primarily, this limitation on Chinese sovereignty is a decided humilation to the nation. It infers an inability to cope with judicial questions. It means a multiplicity of courts and a diversity of laws.

The jurisdiction of an exterritorial court is personal and it controls an individual of no other nationality save its own. It cannot control the attendance of other witnesses, and in cases of

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[19] Mr. Latter, in *Law Quarterly Review*, Vol. XIX, 1903, p. 316, says of these Mixed Courts, "The evils of the Consular jurisdiction of the Western powers are fully felt in the Mixed Court . . . Sometimes the court adjourns in high disagreement. At other times, weary of its civil strife, it tosses the ball back to the litigants and bids them to settle the matter among themselves and not cause any further litigation.

perjury can only stop the trial or refer the witness to the court of his own nationality. If several persons commit a crime, then there must be trials against each of the accused in his respective court. This involves waste of time and money.

Exterritorial courts are often inaccessible. It is true most foreigners live in the treaty ports where courts are held but for those who live at a distance there is delay, expense and inconvenience. Cases of appeal, may be tried out of the country entirely. This means it is practically impossible for the Chinese themselves to attend let alone securing the attendance of witnesses.

Moreover, exterritoriality affords irregular protection to Chinese. Some Chinese will claim residence in Formosa, or other foreign controlled areas and thus be exempted from the operation of the local Chinese law. Some will invoke the jus solis[20] of some other country, while others will claim naturalization as evidence of foreign citizenship. Still others will buy the use of foreigners names and register their property in the foreigners names.

There are also miscarriages of justice as between Chinese and foreigners. Consuls are biased in favor of their own nationals. They interfere in cases which are purely Chinese. For example, the Mixed Court at Shanghai will hear cases between two Chinese litigants on the ground that the decision is bound to affect some foreign interest. The foreigners are exempted from the operation of local traffic and press laws.

Finally, alien owned property is immune from search. When a Chinese fugitive takes refuge in such a place, he cannot be captured until the proper negotiations shall have taken place between the Chinese officials and the Consuls.

There are disadvantages to the foreigners of this system. They are limited to the treaty ports because of their exemptions from local judicial jurisdiction. It is impractical for China to allow foreign traders and business men to penetrate the interior and

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[20] Jus Solis: Law of place as opposed to jus "sanguinis": "Law of blood". The jus solis determines citizenship according to place of birth rather than nationality of ancestry.

flout local customs and laws. As long as this system exists the foreigner will be limited to the rim of the Chinese territory.

Holding court takes much of a Consul's time which could otherwise be spent in trade promotion. The consul is often unskilled in the law and renders decisions to which his own nationals object.

There is much duplication of work. Due to the personal nature of this jurisdiction, many courts might have to do the same work that might well be done by a single court. Particularly is this true where there is more than one person suspected of the same offense. It is difficult to enforce penalties and often impossible to capture persons to bring them to justice. Some nations do not have extradition treaties with China and so when a criminal flees to Chinese territory without the jurisdiction of the court, the court is helpless.

In the matter of counterclaims the foreigner is at a distinct disadvantage. Obviously he can not instigate countersuits in the same court at which he was originally tried for the exterritorial court only hears cases in which the foreigner is a defendant. When he becomes the plaintiff in the countersuit, he must trust to the native Mixed Courts for justice.[21]

As these disadvantages have become more and more burdensome they have accelerated the movement for the abolition of exterritoriality in China. Article XII, of the Mackay Treaty of 1902 with Great Britain provides: "China having expressed a strong desire to reform her judicial system and to bring it into accord with that of western nations, Great Britain agrees to give every assistance to such reforms, and she will also be prepared to relinquish her extraterritorial rights when she is satisfied that the state of Chinese laws, the arrangements for their administration, and other conditions warrant her in so doing".[22] This provision appears in almost identical terms in the treaties of 1903 with Japan and United States.[23]

In its treaty of 1908, Sweden declares that "as soon as all

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[21] *Report of Commission*, p. 20 ff. Willoughby, p. 72 ff. Cheng: *Op. cit.*, p. 182 ff. For statements of disadvantages. See also Chinese statement before Washington Conference. *Senate Document*, p. 475.

[22] The Mackay Treaty. MacMurray, 1902-1.

[23] United States, Japan, Swedish Treaty in MacMurray.

other treaty Powers have agreed to relinquish their extraterritorial rights, it will also be prepared to do so".[24]

Encouraged in its move for abolition by these treaty provisions, the Chinese delegation to the Peace Conference requested that extraterritoriality in China be abandoned. They reemphasized the disadvantages of the system and noted a series of improvements that have been made:

1. China has adopted a Constitution assuring to people their inviolable fundamental rights of life, liberty and property and guaranteeing an independent judiciary free from legislative and executive interference.
2. China has prepared criminal, civil and commercial codes.
3. A system of courts: District Courts of Appeal and a Supreme Court at Pekin, has been established.
4. Civil and Criminal cases have been separated, publicity of trials provided for, corporal punishments to coerce confessions abolished, and a legal profession established.
5. Judicial officers are required to have a legal training and the prisons and police systems have been improved.[25]

The Conference dismissed the Chinese plea because it felt the question of exterritoriality was beyond its scope.

The Chinese then presented their program to the Washington Conference and made their same claims. Understanding the difference between paper statements and actual accomplishments in China, the Powers did not consent to immediate abolition of the system. Instead they adopted a resolution to "establish a Commission to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and the judicial system and the methods of judicial administration of China, with a view to reporting to their governments . . . their findings of fact in regards to these matters and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China and to assist and further the efforts of the Chinese Government to effect such legislative and judicial reforms as would warrant the several Powers

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[24] *China Year Book, 1926*, p. 771.
[25] *Questions submitted to Peace Conference*, p. 21.

in relinquishing their respective rights of extraterritoriality."[26]

This commission met in Pekin from January 12 to September 16, 1926, and then rendered a joint report. Their report is divided into four parts: Part 1, examines the practice of extraterritoriality, while Part II considers the laws, judicial and prison systems of China. The Commission commends the efforts of the Chinese Law Codification Commission in framing a code of laws but it found, "that but few of the laws which were presented to the Commissioners as now being applied in Chinese Courts, were ever enacted or framed by Parliament as the Constitution provides. The so called Laws of China are based upon mandates of the President, or orders of the Ministry of Justice, neither having any legal or constitutional authority to make laws".[27] The courts try to enforce these laws but the trouble is, as ministries change, so do the laws. Thus the administrative officials, who are after all, but military nominees, encroach on the powers of the legislature and judiciary.

After noting the attempts of the Chinese to institute a modern system of courts and of prisons, the Commissioners devote Part III to a study of the Administration of Justice in China. The loss of power by the central government has forced many serious consequences on the administration of justice. "The Commission finds in the first place the reins of government have fallen into the hands of the military leaders who, by virtue of their powerful position, can assume at will, administrative, legislative and judicial functions".[28] It lists numerous cases of actual interference by the military that have come to its attention.[29] "In the second place the Commission finds that the Government Treasury has been depleted to such an extent that funds are at times lacking with which to pay the judicial and police officials. In the third place it finds that the uniformity of the legal and judicial systems is being impaired because of the independent laws and courts established in areas which do not recognize the

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[26] *Senate Document*, p. 475. *China Year Book, 1923*, p. 1054.
[27] *Report*, p. v.
[28] *Report*, p. ix.
[29] *Ibid.*, Paragraphs 197 to 223.

central government.[30] And in the fourth place the commission observes that the extension and protection of the new legal and judicial systems are being retarded.[31] It believes that it is "well within the range of moderation to state that in China at the present time there is no effective security against arbitrary action by the military authorities with respect to life, liberty or property in so far as such security can be afforded by an effective functioning of the Chinese civil and judicial authorities".[32]

Part IV consists entirely of recommendations. "When these recommendations shall have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights."[33] The Chinese Government must administer justice through a "judiciary which shall be effectively protected against any unwarranted interference by the executive or other branches of the Government whether civil or military". It should eliminate the old style magistrates, courts and prisons. It should establish a uniform system for the regular enactment, promulgation and rescission of laws. It should establish and put into force banking, bankruptcy, patent, and land expropriation laws as well as civil, commercial and criminal codes. To the Powers, the Commission recommends that their courts should administer, so far as practicable, such laws and regulations of China as they may deem it proper to adopt.

Mixed cases between aliens, as plaintiffs, and Chinese should be tried before the modern Chinese courts without the presence of a foreign assessor. Special mixed courts should be brought more into accord with the Chinese judicial system. The powers should correct certain abuses arising out of extension of foreign protection to Chinese. Aliens should pay such Chinese taxes as are recognized by the Powers.[34]

Such is the extraterritorial interest of the Powers in China. It is based on treaty provisions, it originated due to the divergence

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[30] The regions controlled by the Cantonese.
[31] *Report*, p. x.
[32] *Ibid.*
[33] *Ibid.*, p. 107.
[34] *Report*, p. 107. *Literary Digest*, December 11, 1926, p. 8, gives a good summary of recommendations.

of Oriental and Occidental judicial standards. It exists to protect foreigners in their trade interests in spite of disadvantages to both Chinese and foreigners. The Chinese desire its abolition but the Powers insist such abolition cannot be consummated until the Chinese put in actual operation an efficient judiciary to safeguard the interests of foreigners.

IX

Other Interests of the Powers

Having discussed the foreign interest in commerce, commercial relations, customs, exterritoriality and investments there remain to consider the foreign interests in the postal administration, the opium traffic and foreign missions. A summary of the interest of each power will conclude the study of the foreign interests in China.

From early times the Chinese Nation possessed two postal institutions; the I Chan (Imperial Government Courier Service) and the other, the Minchu (Native posting agencies). The first looked after the transmission of official dispatches while the Minchu were native posting hongs which considered letter traffic and transmission of parcels, bank drafts and sycee as their legitimate business. These agencies operated privately, without aid or hindrance from the government and were most active in the thickly populated districts. They fixed their own rates, maintained their own courier and post boat service and furnished competition for the establishment of a government Post Office.[1]

The need of a national system of posts was originally felt by the foreigners about 1861, when diplomatic agencies were established at Pekin. The exchange of Legation and Customs mails between the treaty ports and Pekin necessitated local postal departments to make up and distribute mails. Thus postal departments became a part of each Customs House. They had no treaty sanction, but they solved a very practical situation. These customs post offices were under the control of the Inspector General and they formed the nucleus of a government system. March 20, 1896, the Emperor issued an Edict to constitute the Customs Posts as an National Institution, and this is a formal beginning of the modern Chinese Government Post Office. Three years later the administration of postal department was separated from the customs administration and since 1911 it has

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[1] *China Year Book, 1926*, p. 353 ff.

been under the direction of the Ministry of Posts and Communications.[2]

In spite of financial stringency, a raw recruiting field well established competing agencies, native prejudice because of its foreign tint, a debased and irregular currency, annual floods and brigandage, the postal department grew. Starting with communication between Pekin and a few treaty ports short courier lines were established, extended, linked to one another, connected where necessary by junks, hong boats, post on inland waterways, supplemented by camels, mulecarts, wheelbarrows and rafts, and woven into the postal web which now covers the surface of this vast country. The railroads have been the last agency which has aided the government to supply every city, hsien and even some rural districts with letter, parcel post and money remittance service.

Foreign interests in this postal service is twofold. First it has grown up under foreign supervision and today is so administered. The Co-director General and Executive Chief, Mr. Y. Picard-Desteland and his foreign assistants[3] are in a large measure responsible for the functioning of the Postal Office on a financially paying basis. In 1924 the postal department reported a surplus of $4,350,468 in spite of the difficulties with which it was faced.

Secondly, the foreigners have to depend now on the Chinese Post Office for the transmission of their own mails. This was not always true because the Customs Post Offices, created to take care of the transmission of the correspondence of their nationals, continued to remain under foreign control. There were twenty-eight of these at the time of the issue of the Imperial Decree of 1896.

These offices in treaty ports after the institution of the National Posts were contrary to the Interests of the Chinese Posts. Rates on letters for foreign countries were lower and foreigners often unfairly used these offices for purely intra China mail. China naturally desired the abolition of these foreign post offices and

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[2] *China Year Book, 1926*, p. 353. Post Office Report, 1904.

[3] *China Year Book, 1926*, p. 357. Total foreign staff 125; 47 of whom are British, 25 French, 12 Japanese, 7 Italian, and 5 each of Russians, Norwegians and Americans.

hoped they would be abolished when it joined the U. P. U. in 1914. Its hopes were in vain at that time but since then the foreign posts offices have been closed. Germany's were closed at the beginning of the World War, Russia's in 1920 when the Central government ceased recognition of former Russian officials, and the others as a result of the Washington Conference.

The Chinese delegate Mr. Sze objected to the foreign posts because China had a system of its own and the foreign institutions hindered the development of the native system. They deprived the native system of revenues which legally and equitably should belong to it. They violated China's territorial and administrative integrity and rest on no treaty or other legal rights. Packages passing through these post offices could not be opened and this privilege had been abused by permitting the smuggling of drugs and arms.[4]

Following his protests the Powers adopted the Resolution concerning abandonment of their Post Offices. The four Powers concerned agreed to abandon their Post Offices by January 1, 1923, with the exception of those in the leased territories or those otherwise provided by treaty, on condition that the Chinese maintain an efficient postal service and maintain the status of the foreign codirector General. Until 1923 customs authorities were given the right to examine packages to ascertain whether they contained dutiable or contraband goods.[5]

Carrying out the terms of the resolution, in 1922, the British Government closed its twelve Post Offices; the French Government, its thirteen; the American its one, and Japan its sixty-six. There are today no foreign postal agencies in China save those of Japan in the South Manchuria Railroad Zone. Therefore, the powers depend on the foreign supervised native government postal administration for the maintenance of an efficient mail service in China.

While speaking of the Minister of Posts, it is also pertinent to suggest that he controls electrical communications. Although foreigners are responsible for the building and operation of tele-

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[4] *Senate Document*, p. 480. *China Year Book, 1923*, p. 1088.
[5] *Senate Document*, p. 572. *China Year Book, 1923*, p. 1127.

graph lines, wireless and radio stations, they have had to turn these over, with two exceptions, to the Chinese Government according to the terms of the Washington Conference resolution.[6] First, the government legations are allowed to maintain their own stations for the transmission of official messages and they may transmit commercial, personal or unofficial messages if the regular government service is interrupted.[7] Secondly, the radio station in leased territories, in the South Manchuria Railroad zone and the French concession at Shanghai are operated and controlled by their respective nationals. Foreign interests in these electrical communications are protected by the six men who form the foreign staff of the ministry.[8]

Conflicts between Chinese and foreigners relating to the right of foreigners to import opium into China have been so frequent that it is helpful to suggest the interest of foreigners in the opium traffic.

Opium is a narcotic which the Chinese smoke. They do it at the peril of their morality and their lives but many consider the pleasures of opium smoking worth the cost.

Opium made from the juice of the poppy, has been used by the Chinese for medicinal purposes for four centuries[9] but not until the middle of the seventeenth century was it used for smoking. Then the Dutch opium users from Java taught Spanish tobacco smoking emigrants from the Philippines to Amoy the value of mixing opium with tobacco as a preventive of malarial fevers. The smokers soon forgot to mix even tobacco with their opium and by the early years of the eighteenth century opium smoking had become a wide-spread vice.

Traffic in foreign opium grew. Opium was about the only thing the Chinese would buy in exchange for the goods they had to sell and this powerful economic stimulus encouraged the import of opium.

The government officially combatted the use of the drug. In

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[6] *Senate Document*, p. 906.
[7] *Senate Document*, p. 906.
[8] *China Year Book, 1926*, p. 379.
[9] Morse: *Trade and Administration of China*, p. 334
[10] *China Year Book, 1923*, p. 885.

1729 the Emperor forbade the sale of opium and the maintenance of dens. In 1796 he issued a second prohibitory edict and four years later declared the import of foreign opium illegal.[10]

But the British East India Company had built up a tremendous trade in opium because of the monopoly it received from the Moguls. From an import of two hundred chests in 1729, it had increased in spite of opposition to four thousand chests in 1800 and naturally a paper edict of an impotent emperor could not cut off this trade. Opium became contraband, but the fact had no effect on the quantity introduced into the country.

Five thousand chests entered in 1820, 16,000 in 1830 and 20,000 in 1838. The entry into China in the face of a prohibitory decree, was accomplished through the connivance of local officials at Canton who were not in sympathy with the policy of the central government. These aided the Chinese purchasers to bring the opium to Canton from store ships at Lintin; on which ships the foreign traders deposited it.[11] When the Emperor tried to break up these trade practices, he occasioned the Opium War.[12]

The treaty of Nanking made no stipulations as to the opium trade strangely enough, and the trade grew from bad to worse. Illegal importations grew to 85,000 chests per year by 1858, and then the Emperor was forced to admit his inability to stop the traffic. He agreed to the Tientsin Treaty with the British which put import of opium on a recognized basis and imposed a duty of thirty taels per picul (133 pounds) upon it. Besides this the British had to sell opium only at the treaty ports and could not accompany any shipment into the interior. By subsequent agreements of 1876, 1885, and 1911, the import of opium was further regulated by assessing higher import duties and transit taxes upon it.[13]

These facts give no consideration to the attempts on the part of the powers to cooperate in the suppression of the opium traffic. After all, the opium issue is essentially an ethical one and in more recent years particularly have the nations recognized their

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[11] Morse: *Trade*, p. 345.

[12] Note word "occasioned" not "caused". Underlying causes were deeper. They consisted of the general unsatisfactory conditions of trade relations.

[13] Hertslet: *China Treaties*.

moral obligation to try to stamp out the commerce in this harmful drug.

The United States has been opposed to the import of opium into China since its treaty in 1844. By that treaty it refused to protect such of its citizens as might trade in opium and "undertook to prevent its flag from being abused by subjects of other nations as a cover under which to violate the laws of the Chinese Empire."[14] In 1880, it agreed with China to mutually prohibit traffic in opium between the two countries[15] and in 1903 took the lead in securing the prohibition of the import of morphia injecting instruments except those that were needed for medicinal purposes.[16]

The Chinese themselves have further combatted the opium evil in the twentieth century. In 1906 and 1907 the Emperor issued edicts which ordered the abolition of opium smoking within ten years from January 1, 1907.[17] In 1907 and 1911 China entered into agreements with Great Britain whereby the latter agreed to reduce the export of the drug from India by one-tenth (5000 chests) each year, provided the Chinese should curtail their production by one-tenth each year. These two powers cooperated and in 1917 import of opium into China became illegal. Since then conditions have turned for the worse. Rebellion and revolution have wrecked the efforts of the central government to prevent poppy growing and at the present these conditions exist:

1. Production is limited only by the inclinations of the people on the on hand and the varying degrees of military compulsion on the other.
2. Absolutely no restrictions are placed on any branch of the traffic except by a few isolated magistrates.
3. Every transaction in opium is taxed to the breaking point. Military chiefs use the opium tax to secure funds.
4. No official protest has been made by the government despite its knowledge of conditions.[18]

Reports from the provinces all bear the same testimony. The authorities do not only fail to restrict the production but they aide

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[14] Willoughby, p. 468.
[15] *Treaties and 24 Statutes at Large*, p. 409.
[16] Article 16.
[17] *China Year Book, 1923*, p. 885.
[18] *China Year Book, 1926*, p. 620.

traffic; they indulge themselves and wink at the unfavorable situation.[19]

The import traffic continues in an underhand manner but the Customs officials are trying to stamp it out by seizing all they can. In 1925, they seized approximately 46,000 lbs. of native opium, 3,000 lbs. of foreign opium; 800 oz. of opium dross, 181 lbs. of poppy seeds; 12,000 oz. of morphia and 6000 oz. of cocaine and heroin.[20] These figures of the amounts that were captured suggest the larger amounts that must have escaped.

The twentieth century has witnessed international action concerning the opium traffic. In 1909 an International Opium Commission met at Shanghai to consider the "matter of the production, sale and use of opium and its derivaties and it recognized the dangers of the opium habit."[21] It pointed out the duty of the governments to prohibit or regulate the opium traffic. It urged the nations to stamp out opium dens and traffic in their concessions and settlements in China.

An International Opium Conference of 1911 met at The Hague in order to give effect to these recommendations that the Commission had made. The resulting Convention provided regulations looking for the abolition of the traffic. In regards to China, it provided specifically that,

1. The Treaty Powers and China should take steps to prevent smuggling between China and their Far Eastern possessions.

2. The Chinese Government should promulgate pharmacy decrees regulating the sale and distribution of opium and its derivatives.

3. The Treaty Powers should adopt measures to control opium in their settlements, concessions and leased areas in China.

4. They should take effective measures, in concert with China, to reduce the number of places in which raw or prepared opium might be sold.[22]

These regulations have not been enforced because some of the powers have failed to support the convention. Later Conferences were held at The Hague to put this original convention into

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[19] *China Year Book, 1926*, p. 622.
[20] *Ibid.* Not an ounce of these drugs were from American or British sources. The Japanese, Germans, Turks and Persians were the chief offenders.
[21] Willoughby, p. 475.
[22] Text. MacMurray, 1912-2 and 1913-14.

force, but conditions in China precluded the successful outcome of these conferences. The League of Nations has attempted to curb the opium traffic but its activities have come to nought. Without effective cooperation from China the powers can not wipe out the opium evil. They can scarcely progress towards their ultimate goal while opium traffic and unrestricted production continues in the Far Eastern Republic.

The ethical interests of the foreign powers in China centers around the missions and the schools. These have been important factors in westernizing Chinese. Missionaries alone are allowed to penetrate into the interior and they can spread their ideas in places inaccessible to western traders.

The Chinese resented the ingress of the foreign missionaries. Jealousy of their own institutions prevented the Jesuit Christian priest,[23] St. Francis Xavier from entering the mainland in 1558. It was with difficulty that the early Jesuits carried on their work. They succeeded in gaining the favor of the Court and the Emperor lent a willing ear to what they had to say. But because of a dispute between the Domincans and the Jesuits in which the Emperor became involved,[24] there was issued an edict in 1727 which prohibited the propagation of the Christian faith and confiscated the property of the missions. The Dutch Calvinists as well as the Catholics were driven out.

Missionary activities were at a practical standstill until the Treaty of Nanking guaranteed religious freedom for the Christians. With that went the right to build churches and hospitals, rent or build houses, and to open burial grounds. These same privileges were granted by treaties to Belgium, Denmark, France, Germany, Italy, Portugal, Russia, Spain and the United States.[25] Consequently the missionary movement spread and Christian establishments sprung up, even in the remotest parts of China.

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[23] *China Year Book, 1923*, p. 903. The early Christian church had made missionary efforts in China. These died when the Turks shut off the land route to the East. St. Francis came with the opening of the sea route.

[24] Morse, p. 15. The Jesuits insisted the word "God" should be translated one way into the Chinese and the Dominicans another way. The Emperor decided for the Jesuits and the Dominicans appealed to the pope. The pope reversed the emperor's decision and it angered him.

[25] *China Year Book, 1923*, p. 903.

The story of this growth is one of hardship, difficulty, and patient endurance of adverse conditions. Everywhere missionaries met prejudice, suspicion and animosity. Many were killed. The Emperor ordered protection for them as there were periodic outbreaks against them. Due to the Boxer uprising, two hundred and twenty-one missionaries and their families met death for the sake of the Christian faith. The way many of them died and the way many others rebuilt on the ruins of the churches opened the eyes of the Chinese. Since then the spread of Christianity has been steady and rapid. There are missionaries in every province and city in China. The Republican Government has repeatedly announced its intention to abolish all disabilities previously laid on Christianity.[26]

It is impossible to evaluate the influence of the missions. These missions have spread religious thought. They were the pioneers of civilized medical treatment. They have established schools which have led in the educational reform. They have taken part in every kind of social service, the worth of which is beyond measure.

Just a few figures will suggest the extent of foreign mission activities. There are in China 6636 foreign Protestant workers and about 20,000 Chinese workers. Of the foreigners 1310 are ordained clergymen, 466 are doctors, and 206 are nurses. The rest are for the most part teachers. There are 200,000 Chinese students in Christian schools. In 1921 there were 618,611 Protestant Christians, as compared with 2,277,421 Catholic Chinese. Fifty-four bishops and 2817 foreign priests direct the activities of the Catholics in China. The Y. M. C. A. has made immense strides in China during the past few years. It has thirty city associations with a membership of 41,699 and 174 school associations with 29,639 members.[27]

The protection of the lives and property of these missionaries is a charge on the respective governments concerned. Missions as

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[26] *China Year Book, 1923*, p. 904.

[27] The Protestant statistics as of 1921. They are taken from *China Year Book, 1923*, pp. 906–912. Figures for the Catholic are in *China Year Book, 1926*, p. 659.

well as commerce must be included in the interests of the foreign powers.

The powers have maintained armed forces in China to protect their interests in case of an emergency. Not only have gunboats patrolled the Chinese coast[28] but in addition to these foreign police and soldiers have been stationed in places outside the concessions. Japan had four battalions in Shantung, one in Hankow and a whole division in Manchuria to safeguard their interests there.[29] In Shanghai there was in 1923 a volunteer corps of 1686 ready for service at any time. There are, in addition to these, the garrisons permitted by the Boxer Protocol. These are stationed to protect the Legation Quarter at Pekin and to insure communication between Pekin and the sea.[30] The Chinese resented these troops as violating their sovereignty but recent events have forced the powers to increase the number of their troops in China.

A few observations on the particular political interest of individual powers will conclude our discussion of foreign interests in China. America is vitally concerned with educational and missionary activities and has insisted on the preservation of the Open Door policy.[31] Our investments are meagre, and according to Mr. E. Stanley Glines:

"We Americans are not in China at all. We don't amount to anything in China. We just haven't any interests in there to speak of and if it were all wiped out tomorrow it wouldn't make any difference to us whatever . . . No one is desirous of going out and taking anything from China. What we are desirous of seeing is, a friendly China, because we want primarily to sell to the Chinese, and in order to sell we must have a stable and a prosperous China.[32]

That idea of having a stable and prosperous China which can take part in the trade of the world is the motive of foreign interests in China. Great Britain has consistently acted towards

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[28] Right guaranteed in Art. 52., Sino British Treaty, 1858.
[29] *Baltimore Conference*, p. 122. *Senate Document*, p. 574.
[30] Articles 7 and 9, *Baltimore Conference*, p. 125.
[31] *Williamstown Report, 1926*, p. 57.
[32] *Baltimore Conference*, p. 151.

that end, but the ambitions of some of the nations have carried them beyond it. The Germans had to revoke its privileges on account of the war while France still remains the dominant economic factor in South China. The conflicts between the Japanese and the Russians have taken a new phase since the Bolsheviki revolution. Japan's aggressiveness has secured for it Southern Manchuria while Russia controls Northern Manchuria and Mongolia. The Soviets are, however, stalking for bigger game and by their treaty of May 31, 1924, have readjusted their relations with China. They annulled their previous treaties and agreed to negotiate new ones on terms of equality and reciprocity. They renounced their customs and exterritorial privileges, their share of the Boxer fund and their special rights and privileges in the concessions. They also readjusted the status of the Chinese Eastern so that it should be managed as a commercial enterprise and not solely a political handmaiden.[33] Thus, Russia has lost the special interests that marked her penetrations into the north but she has gained a far more valuable thing; the good will of those who would have China for Chinese alone. By this good will she hopes to encourage China to adopt her communistic doctrines.[34]

In summary, it is emphasized that the foreign interests, whose existence constitutes a second phase of the political situation in China, have been developed by the powers in their efforts to maintain a profitable trade. The Chinese object to them because they not only limit China's freedom of action in dealing with the foreign nations but they infringe upon her jurisdiction over her own territory.

China's program is to regain her territorial sovereignty and maintain its integrity. Mr. Sze presented this program at the Limitations of Armaments Conference:

"China does not care to alienate any of its territory and desires the application of the Open Door. Her rights in the Far East must be respected by admitting China to a Conference to determine the policies of the powers in the Far East. In addition,

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[33] Text of Agreement: *China Year Book, 1926*, p. 1096.
[34] *New York Times*, Sec. 9, p. 1, April 10, 1927.

Chinese neutrality shall be respected in case of war between two other nations, the powers shall not make agreements concerning China unless China consents to such an agreement; grants in China shall be strictly construed in favor of the grantor; these rights shall be declared harmonized or made void; time limits shall be set on present limitless agreements and as soon as possible all limits shall be removed from China's political jurisdiction and administrative freedom of action."[35]

Specifically he pointed out that the Chinese exercise of sovereignty was limited by the treaties which provided for the Maritime Customs Administration, exterritoriality, settlements, and concessions. It was violated by the maintenance of foreign troops on her soil without her consent; by the establishment and operation of Post Offices and wireless; by the refusal of foreigners to let Chinese customs officials to inspect postal parcels; by the legations granting asylum to fugitives from Chinese justice, and by the economic monopoly in the spheres of interest."[36] China demanded the abolition of the violations of her sovereignty and the modification of the limits on her sovereignty. Limits are set by treaties and China asks that new treaties be negotiated on basis of equality and reciprocity. By the new treaties, China will really limit herself (if there is any limiting to be done) and will not have to submit to limits forced by other nations.

Those were Chinese demands; abolish violations of sovereignty and redetermine limits on sovereignty. What have the powers done concerning them? The nin power treaty between United States, Belgium, Great Britain, China, France, Italy, Japan, The Netherlands, Portugal is the last joint declaration of general policy. By Article I, they agreed to respect sovereignty, independence, territorial, and administrative integrity of China; to provide fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; for equal opportunity for commerce and industry for all nations in China. By Article II, they agreed not to arrange with

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[35] Willoughby: *China at the Conference*, Chapter 1.
[36] *Senate Document*, p. 443.

one another infringing on principles of Article I; by Article III, not to seek or support their nationals in seeking superior commercial or mutually exclusive opportunities; Article V, not to permit discriminations on their railroads; by Article VI to respect Chinese neutrality in time of war. By additional resolution they agreed to surrender those things which the Chinese argued violated their sovereignty.[37]

So far the attempts to redetermine the limits of Chinese sovereignty have made but little progress. The nations have stated their readiness to grant tariff autonomy to the Chinese. The British, in keeping with the recommendations of the exterritorial commission have expressed their willingness to remove the British assessors from the Mixed Courts, to apply Chinese civil and commercial codes to their Courts and to go even further when "Chinese codes and judicial administration are ready.[38] They have agreed to make the concessions" joint municipal undertakings.[39] That is to say, each concession shall negotiate with each native city to form an administration wherein the Chinese will be represented. British troops will remain in British concessions, merely for protection of British lives and property and will maintain strict neutrality in Chinese Civil War. The United States has declared its desire to negotiate new treaties as soon as a Chinese Government is established with which to negotiate.[40] Public opinion in America at least, supports the position that China should be permitted new and equal treaties and now it seems as if the other powers will fall in line with that policy.[41]

Granted that the violations of sovereignty should not exist, that the limitations of sovereignty should be imposed by the voluntary consent of China, what is likely to be the solution of the problems presented by the existence of foreign interests in China? First, there is a group who feel that armed force must be

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[37] *Senate Document*, p. 897 ff.
[38] Chamberlain's statement, January 28, 1927, in the United States Papers.
[39] Pact signed February 20, 1927, made these provisions.
[40] Kellogg's statement, January 26, 1927.
[41] The Cantonese argue that all they need to do is establish a revolutionary government and then they can negotiate new treaties as a new government. *New York Times*, December 4, 1926.

exerted to maintain the interests of the powers in China. Lord Birkenhead, speaking for the British, feels that "the Cantonese Red Movement should have been blown up before it started, or first thing all Asia will be anti-British. Turkey, Persia, Afghanistan and India will follow the lead of China".[42] An American writer feels "nothing but force or show of force can put down the bandit kings who have divided China among themselves . . . Intervention would shock the opinion of the world but it is bound to come as it is the only way out."[43]

It is felt that peace is all that is needed "to continue Chinese trade and the only way to get eventual peace is to stamp out uprisings like the present one which threaten peace. The difficulty of such a policy is that there are so many Chinese who would resent armed interference. It would bring the world no nearer to its goal of peace based on understanding and would only intensify the fear and hatred that has smouldered in some Chinese breasts since 1842. As the Williamstown Institute of Politics concluded . . . "the policy of force is futile. Pressure can not be brought to bear upon the whole people, and there is no government which can be influenced in that manner.[44]

Another policy advocated is that the foreigners should abandon their interests there. Write off their holdings in China as losses, and get out for the sake of their lives. This is unwise for it destroys what years of effort have built up. More reasonable is the claim of those who would give up the treaty privileges at once, but there are objections to this course. Some think that to do so would simply increase the chaos by putting responsibilities upon those who are in no condition to assume them.[45] Prof. Lowrie states his conviction: "Foreign control has become so interwoven with China's political, commercial and industrial life that it can not be easily uprooted. Mere withdrawal is no solution; new institutions must first be developed to replace those it is proposed to abandon. If the powers were to withdraw from the management of the Maritime Customs, if the foreign con-

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[42] Speech quoted in *Public Ledger*, December 8, 1926.
[43] Rodney Gilbert: *Fortnightly Review*, November, 1926.
[44] *Session of 1926*, p. 63.
[45] *Ibid.*

cessions were to revert to Chinese control, it would be a staggering blow not only to foreign interests but also to the Chinese themselves. When Japan removed these, she had a strong unified government in complete mastery of domestic affairs.[46]

Mr. Henry K. Norton feels "If the treaties were wiped out tomorrow, China would be no nearer the goal of her nationalists. It may be argued that the disappearance of foreign control would remove the one check on the separatist tendencies of the Chinese military barons. The result of any precipitate action would be thus to ruin the chances of Chinese unity and industry for a century. Remind Chinese of their great task rather than rail at foreigners for failure to trust selves and properties to Chinese sovereignty as long as China shows no regard for it.[47]

On the other hand the Chinese argue the foreigner should abolish their imperialistic privileges and China will be in a position to grapple with her domestic policies. China can not devote herself to her home troubles when foreign powers are constantly interfering. When the foreigner is in China subject to Chinese jurisdiction, when China is a sovereign nation, then domestic tranquility will follow. The diversity of views is apparent; the foreigners say "put your house in order and we will stay here subject to your jurisdiction"; the Chinese say "subject yourself to our jurisdiction and you are welcome. When we are masters, we will put our house in order".

However, this problem of foreign rights in China, is primarily China's problem. True Great Britain is concerned, Japan, Russia and all the rest are concerned but China's interest is supreme. The other nations regard the problem as a matter of trade; China, as a matter of national life. This tends to swing the scales of justice to the Chinese side. The question of right favors the Chinese; the question of expediency favors the foreigners. China wants to become a sovereign nation and it should determine its own methods of progress. But it dare not be an international criminal. It must respect the obligations of humanity and gunboats in the harbors are justified, if such is the purpose of their presence.

[46] *Baltimore Conference*, p. 47.
[47] *In Asia*, August, 1926, p. 730.

Assuming the ultimate object of the powers in China is to aid China's development into one of the great markets where the rest of the world can buy and sell, and assuming that China should have jurisdiction over its territory when it can enforce its jurisdiction, the thing for the powers to do is to withdraw slowly from their privileged position. Let their nationals continue to trade with China, and afford them protection to their lives and property so long as China demonstrates her inability to do so. As the Chinese themselves assert their readiness for responsibilities, and demand the return of privileges, it is better to concede them than to fight for them.

The problem is developing China's trade and if China fails in her problem, China and not the rest of the world, will die. It is inconceivable to think of the Chinese committing national suicide and that is the logical conclusion which follows the contention of those who oppose a conciliatory policy toward China. If the big brother nations are so eager to help develop China's trade, they can do it by better means than fighting for the concessions they have wrought from China.

In regard to tariff autonomy the Chinese argument is unanswerable. "No nation can secure the necessary revenue to maintain its government and arrange a proper protection for its industries unless it has complete freedom in fixing tariff rates. To argue tariff autonomy must follow a stable government is to injure both foreign trade and Chinese people. That it will enable the military adventurers who control the government to secure additional millions which must in the end be paid by Chinese masses is probably true. But if true this matter is a purely Chinese problem and not one in which we have any right to interfere".[48]

So far as the administration of the customs is concerned, it is expedient to continue the foreign administrators. Prof. Jenks practically comments, "that it would not be wise to take away the foreign position too soon from an administrative viewpoint. The Chinese have good administrators among themselves but in that matter they might still very well afford to continue at their

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[48] Mr. H. K. Norton: *Asia*, August, 1926, p. 734.

own free will a foreign tutelage longer. The real interest of China would not permit in the long run hasty removal of all the foreign inspectors.[49] There is little doubt that the Chinese are willing to maintain this administration as a temporary agency looking for the development of a permanent Chinese staff. Be that as it might, the Chinese are entitled to arrange their own tariff schedule.

Accompanying these western aggressions into China, there has developed an anti-foreign sentiment on the part of the natives. How a Nationalism is emerging from this anti-foreignism is the subject of the third phase of the political situation.

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[49] *Baltimore Conference*, p. 89.

X

The Emergence of Nationalism

It is necessary to obtain a clear concept of the term nationalism as it is used in the following pages. Nationalism is the combination of "feelings of common interest along social and cultural, economic and political, religious and ethical lines.[1] It is a feeling of oneness among the poeples of a nation. But what is a nation? Is it a mere geographical unit, a physical fact? It is more. The people, occupying a given territory, in order to constitute a nation must be "animated by common interests and by a devotion to common ideal ends."[2]

For ages, the common interests and the common ideal ends of the Chinese were those prescribed by the teachings of the sages. A Honanese was a Chinese because he guided his life by the teachings of Confucius. Chinese unity was not a political thing but a spiritual and a moral one. China was not a state, it was a civilization. It is significant to note how Chinese nationalism is in the process of becoming political as well as spiritual; how the Chinese people are establishing for themselves common political interests and common political ideal ends that are intended to create a distinct Chinese nation.

The leaven of nationalism has been a common antagonism to the foreigners. The Chinese had scorned the Japanese for hundred of years as "little black dwarfs." They resented the domination of the Manchus as alien rulers, and they became irritated at the Europeans through the early French and English Wars. This original antagonism was based on the personal feelings of the few (aggrieved traders) and the feeling of racial superiority of the many, rather than upon the spirit of nationality itself.

Modern China has had to substitute the spirit of nationality for these personal feelings.

The first step came with the Sino Japanese War of 1894. The

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[1] MacNair: *China's New Nationalism*, p. 7.
[2] Bridges: *The Religion of Experience*, p. 227.

outcome of this war gave the Chinese a severe jolt, because of their lack of political unity.[3] They were humiliated by their neighbors. Their rude awakening to the fact that there might be something in the nationalistic civilization of the west, prompted the paper reforms that followed. The impractical Chinese felt they could Westernize themselves by merely saying they should. Then came the Boxer Rebellion.

The Boxer Rebellion was originally both anti-foreign and anti-Manchu, but the Empress Dowager put herself at the head of the movement and skillfully diverted all the antagonism against the "foreign devils". The ease with which China was vanquished increased the fear and hatred of the Chinese for the Western powers. They realized their inability to assert themselves against their aggressors. Nevertheless, the victory of the Japanese over the Russians aroused a new confidence in things Oriental. This was a second step in stimulating a "self-conscious feeling of nationality throughout the East."[4]

All the while the Westerner had been going to China to establish schools and colleges. European religious, social and political thought had been disseminated throughout the land. Chinese students went abroad to complete their education and they, very definitely came in contact with nationalism and patriotism. When these returned to their home land they spread the ideas which they had absorbed. They believed a large part of the strength of nations lay in the spirit of nationalism and taught their friends at home concerning this source of strength. It behooved the Chinese to learn of the power of their opponents.

The Shantung negotiations at the Peace Conference stung the Chinese into a deeper sensibility of their oneness. China had taken part in the Great War and it asked for the return of Shantung as its share of the reward. Shantung is the sacred province. There Confucius lived, taught and died. The Holy Mountain of Shantung is sacred to his memory and is precious to every Chinese. China's request was refused and a tremendous

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[3] Goodnow: *China, an Analysis*, p. 215.

[4] The province of Chihli practically carried on the war itself. A fleet in the Yangtze refused to leave its haven of safety to go to the help of a luckless fleet from Chihli.

furore resulted. This furore contained the raw material for the foundation of a national spirit. It accomplished little and grew slowly until a definite organization tried to interpret its spirit and direct its progress.

The Southern Revolutionists under the guiding spirit of Sun Yat Sen, provided the necessary organization, to forward a definite nationalistic movement. Dr. Sun Yat Sen was an active opponent of the Manchu dynasty, and was the first provisional president of the New Republic. But he was a man of ideals, more than of practical ability. While he lived he was not able to impress his beliefs on the dominant military leaders. After he died, General Chiang Kai Shek became the Supreme Marshall of South China and took the doctrines of Sun Yat Sen as the keystone of his policy. On a platform of nationalism, his power has grown.

The first principle of the modern Chinese nationalism remains as anti-foreignism. That does not mean antagonism to all foreigners but does mean opposition to the privileges that endanger full Chinese sovereignty. In anti-foreignism General-Chiang has a weapon with which he appeals to the masses for his support. Recent events in China have stimulated this anti-foreign movement and consequently strengthened the Kuomintang (country-people-association) or Nationalist Party.

The origin of the recent anti-foreign demonstrations was May 30, 1925. Some students and laborers at Shanghai attended memorial services of Ku Chung hung, a laborer who lost his life during a riot at Japanese cotton mills. Speakers swayed their emotions and incited an "anti-imperial" sentiment. Russia is in a large measure responsible for the Chinese objective of anti-imperialism.[5] Russia has worked on the sympathies of the Southern leaders through their "generous treatment" in abolishing special treaty rights. It has little hope of establishing communism, but through a Russian adviser to the Kuomintang party, it has undertaken the championship of Chinese labor and has supported the battle cry of anti-imperialism. By using the Chinese to combat the British and the Japanese positions in

[5] This position is held by the great majority of authorities and observers.

China, Russia is at the same time forwarding her own Far Eastern ambitions.

This fact accounts for the presence of Bolshevistic agitators in China. It was undoubtedly some of these agitators who caused the scattering of leaflets which demanded redress for the death of the unfortunate laborer who had been killed. It was these, too, who at the mass meeting of May 30 inspired the students who carried banners labelled "Abolish Extraterritorial Rights" and and "Cancel all unequal treaties". The Foreign Police attempted to disperse them; three were arrested. The crowd followed the prisoners to the station house and soon degenerated into a howling mob shouting "Kill the foreigner". To stop the mob, shots were fired and some Chinese were killed. The indignation was intense and June 1, the Chinese boycotted all foreign goods in Shanghai.

During the next few days, they attacked some foreigners and some Chinese who remained faithful to their foreign employers. The feeling against the aliens spread and throughout the summer there were strikes, boycotts, and demonstrations in nearly every large city. At Shanghai redress was demanded[6] and the Municipal Council authorized an inquiry by the Diplomatic Mission at Pekin to place the guilt and determine the punishment. This mission blamed the Council, so the Council ordered a new investigation to be conducted by the Mixed Court Judges.[7] As a result the Council offered to pay the families of the persons who were killed in the May 30th affair, but the Chinese refused to accept it. The affair has never been diplomatically settled. Its importance is in the fact that it is only a phase of deeper discontent that has expressed itself in later occasions.

The disturbances in South China centered about Canton. In June 1926 the Chinese strikers approached the Shameen, a gunboat in the harbor fired on them, and killed several Chinese. A general strike followed, and pickets were appointed to enforce a

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[6] Chambers of Commerce, Educational Associations, etc., made these demands.

[7] *China Year Book*, p. 919 ff. Documents cited.

boycott of British goods at Canton.[8] Trade from Hongkong was stifled and not until October was the boycott lifted. At that time British conceded the Cantonese the right to inspect ships before unloading and to collect the two and a half per cent and five per cent surtaxes agreed upon at the Washington Conference.[9]

In these instances and others throughout China, the strike has been a favorite means of harassing the foreigners. The strike as the Chinese are using it, is political as well as economic in character. It is true wages are very low in China,[10] that conditions of work are unfavorable,[11] that the copper currency of the masses is depreciated and that prices are going up faster than wages. But these economic causes in themselves do not account for the prevalence of strikes.[12]

Political appeals to the laborer assure him that by the strike he can embarrass his foreign employer and combat the cursed imperialism. This accounts for the fact that in Shanghai, in 1925 nearly 150,000 laborers were out and organizing into trade unions.[13] And the trade union movement is decidedly anti-foreign. It can not exist in the Chinese interior where the guild control of each handicraft is supreme and it does not affect the Chinese owned mills on the coasts.

The spirit of the laborers is radical and inconsistent except as it is interpreted as a political agency. Wages and conditions in foreign-owned mills are far superior to those in Chinese-owned mills, but labor is taught to oppose the foreigner so as to encourage native industry. Russian encouraged chauvinistic

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[8] Of these strikers it is said "80 per cent are damn fools, 15 per cent patriots and 5 per cent millionaires." *China Year Book, 1926*, p. 969.

[9] *Current History*, December, 1926, p. 463.

[10] Cotton weavers in 1926 averaged $5.00 to $7.00 Chinese silver per month and board.

[11] The common Chinese working day is 11 to 14 hours long and conditions of labor are satisfactory and healthful only in modern factories. Chinese labor unions, however, have limited their activities to anti-foreign expressions. They have no voice in the government except at Canton.

[12] "There is much unrest and disturbance in China. There have been huge demonstrations in Shanghai, Tientsin and Hankow. In these hundreds of thousands of people have participated. Students strikes and labor strikes and merchant strikes, and boycotts have been the order of the day. No sacrifice has been considered too great for their support. The whole country is stirred by a common cause." Dr. Kuo in *Baltimore Conference*, p. 22.

[13] *China Year Book, 1926*, p. 998.

nationalism is the only explanation of the anti-foreign labor movement in China.

The part of the students in these disturbances is likewise prominent. The ancient Chinese regard for the literati has made possible a respect for modern Chinese students. To them China looks for leadership and many of them are intellectually equipped to make capable leaders. The only trouble with the student movement is that anyone who wears a long coat is likely to style himself a student and gain entry to one of the Students Unions or Students Associations. The impostors can not detract from the importance of those who have imbibed western education and appreciate the wrongs that China has suffered. These students lead the anti-foreign protest and healthfully stimulate the growth of loyalty to a Chinese nation.

In a large measure these students fill offices of responsibility[14] and set the ideals of the anti-foreign movement. They understand the movement for the abolition of the unequal treaties and are skillful enough to phrase their catchwords to excite the passion of the mob. They abrogated the treaty with Belgium in 1926,[15] when Beligum refused to negotiate a new treaty on the basis of equality and reciprocity. They threaten to do likewise with all nations which will not concede to their demands. The unequal treaties have created foreign privileges and now they are creating the sentiment that would lead to their extinction.

The part of the soldiers as to the anti-foreign movement can not be overlooked. Their victories for General Chiang make possible the work of the propagandists. The soldiers of the South have risen above the general level of the "coolies and riffraff" which have composed previous Chinese armies and are animated by more than a mercenary spirit. They have been winning many military victories, but instead of looting have attempted to establish peace and order; they have suffered military defeats but instead of confusion and surrender, they have retreated gracefully and strengthened their position for a future attack.

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[14] A Harvard graduate increased the revenues for Canton from 9 to 48,000,000 dollars a year, without raising the taxes.

[15] *Current History*, December, 1926, p. 463.

The sweep to the north has been steady and irresistible and is conspicuous for its absence of rapine and plunder.

The action of mobs and uncontrolled elements has been disgraceful and dangerous. As the Southerners advance they spread their nationalistic propaganda and this intentionally or unintentionally creates a spirit in the liberated cities which gets beyond the control of the commanders. For example, mobs looted the concessions at Hankow after the fall of that city, destroyed buildings, hauled down the flag of the British consulate, forced the closing of all banks and places of business. The foreign residents took refuge on gunboats in fear of their lives.[16] Anti-British posters in Kiukiang made it expedient to evacuate that city,[17] while at Foochow mobs looted churches, missions and schools.[18]

This attack on Christian institutions is another direct evidence of Russian influence. The Russians have two pet "anti-s": anti-British and anti-Christian. When their anti-Christian propaganda gets in the notions of the mobs, outrages such as that at Foochow occur. Mobs raided the Anglo Chinese College at Swatow, and at Wuchow drove the staff of the Stout Memorial Hospital to the safety of the gunboats. In Pakhoi and Nanning, they desecrated churches, missions and even cemeteries.[19]

When the Cantonese captured Shanghai, there was looting by uncontrolled elements. Following their entry into Nanking March 24, 1927, the Christian College and all foreign residences were looted.[20] Even the clothing was taken from the bodies of the foreigners. Many were captured and held for ransom, some were killed and the remainder were saved by taking refuge on Socony Hill in the northern end of the city. A bombardment from battleships in the harbor prevented the Chinese from harming these. This bombardment has caused a deeper anti-foreign sentiment throughout China and the powers fear the conflagra-

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[16] *New York Times*, January 8, 1927.
[17] *Ibid.*, p. 12, January 12.
[18] *New York Times*, January 19, p. 1.
[19] *China Year Book, 1926*, p. 978.
[20] General Chiang is investigating the Nanking incident and promises redress if his soldiers are responsible for Nanking outrages. The Foreign Consuls blame him. *Evening Public Ledger*, April 1, 1927.

tion that may reduce China to chaos. The outbursts are those of an uncontrolled mob, not of the soldiers themselves, but some suspect that the military leaders and propagandists deliberately incite them to action.

Such is the anti-foreignism in China today. It is the vehicle of impressing the masses with an eventual spirit of nationalism. "Drive out the foreigner", is a slogan which means something to the average Chinaman. He can help do that. But the leaders do not care to drive out the foreigners literally . . . They want to take away his privileged position and let him take part in the trade of China subject to China's jurisdiction. Both northern and southern leaders have repeatedly expressed themselves to this effect but they have to accomplish their ends by means which will rally popular support to their cause.

It is a long stride from anti-foreignism to nationalism. Even after China does get its sovereignty there is the question, what is she going to do with it? The Nationalist Party has two other planks in its platform which indicate its ideals. It would develop educational and political democracy to establish popular sovereignty. It would foster Chinese business and Chinese labor so as to utilize Chinese resources and make Chinese products important factors in the markets of the world. These ideals are difficult to accomplish in any country. It requires effort, to make ideals matters of practice.

But the sentiment of nationalism as it has emerged from anti-foreignism is growing and spreading. Some foreign observers ridicule it[21] but more agree with the beliefs of Rev. J. Leighton Stuart:[22]

"Never before in their long history have the Chinese people been so nearly unanimous, so well informed and so deeply stirred as they are now over this issue of their sovereign rights in relation to other countries. The Chinese people are at one in this sentiment. This nationalistic self-consciousness is a striking instance of real democracy . . . with all the idealism and all the dangers of such a situation.

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[21] R. Gilbert: *Fortnightly Review*, November, 1926.
[22] *Baltimore Conference*, p. 36.

It will be a long time before the family and village psychology of the Chinese will be supplanted by the concept of nationality. But at the present, General Chiang Kai Shek and his Southern troops are conquering the Chinese territory. His military victories can lead to a unified command of China. Just as Roman unity facilitated the spread of Christianity so can Chinese unity facilitate the spread of Chinese Nationalism.

The Cantonese have added a new aspect to war. There is a motive behind their fighting. They are not just in the army of General Chiang, but they are in the army of China. Worthwhile young men enlist for an ideal, where before they would have spurned the man. They are aroused and offer their lives for the cause. War is no longer a comic opera affair. Armies do not battle for days with the loss of a man or two but casualties are severe. Thousands are killed and the hospitals are filled with maimed and wounded. Antagonisms are intense. When ammunition plays out, sticks and stones fly fast and loose. Soldiers are really fighters, and their spirit has taken them on their march of conquering China. This spirit is infectious. It has called thousands of Chinese to the ranks and will call thousands more if need be. If it can make further inroads into the sentiments of the masses, the war lords and their cliques are doomed. The nationalists are winning support to their side and their propaganda wins even soldiers from their opponents. Feng and Wu and their armies are inclined sympathetically to the nationalists cause.

Propaganda is a powerful weapon for the soldiers for the South. Advance agents penetrate the cities of the enemy and scatter leaflets by the thousands. These leaflets denounce the foreigner, uphold the nation, and champion the cause of the laborer. They destroy the morale of the opponent and cause the armies to be welcomed as liberators and not detested as conquerors. Propaganda has won more victories for the south, than the force of arms and it will continue to be the means to gain supporters for the Cantonese.

It looks as if the Cantonese must conquer China. They have swept northward through the Yangtze Valley and have demonstrated their capacity to take a loss if they must. In the past, losses have meant surrenders and have been the cause of the

downfall of many leaders. But the forces of Chiang have fallen back, dug in and started over.

The southern army has many things in its favor. It has expert leadership. Russian trained officers direct their activities and the organization has been well managed and well directed. It has financial backing. A Harvard graduate, Mr. T. V. Soong is collecting taxes as his western training has taught him to and he levies where he finds ability to pay. His genius has kept the Cantonese fed, clothed, equipped and paid. It has popular support. Labor unions form the backbone of the new movement and labor welcomes the nationalist cause. The Chamber of Commerce find in nationalism relief from the impositions of Wu and his type and possibilities for the greater development of Chinese industry. Students find liberation from historic foreign oppression and all alike see the Chinese nation. With brains, money, and support the Cantonese are unbeatable.

But suppose the machine falls apart. Chinese leaders have a fondness for personal quarreling and it is perfectly possible the Kuomintang edifice might topple over. Differences of opinions might easily develop into a rupture that would hurl China back into chaos. These personal convictions must be set aside in the interests of the group if Chinese nationalism is to continue. Or suppose, the source of financial aid should be cut off. Armies must live and poverty is a destroyer of sentiment. Without money the cause will be checked and beaten. However, it will be most difficult to kill the spirit that has been aroused. Nationalism has been born and unless choked to death is bound to grow.

Again, as the nationalists advance to the north they are getting farther and farther away from their own base. This will make it easier for the armies of the north to defeat them. If the nationalists are defeated, China will have made no progress since 1916 towards a unified control. On the other hand if the nationalists win, unified control will have become an actual fact.

The doubt in the situation is due to the activities of the foreign nations. Because they support first one clique and then the other, they can shift the tide of battle. It is no secret that the Japanese have supported the northern faction by arms and money and the

Germans too have been participating in gun running.[23] It is to their advantage to support the north for privileged positions of foreigners are safer with men the type of Chang Tso Lin in control. With the strength of foreign nations opposing them, the Cantonese are checked in the accomplishment of their ideals.

Chinese nationalism is a desirable end being forwarded by unfortunate means. "Desirable end" because the system of nationalism has proved to be the one under which individuals can best assert and develop themselves; "unfortunate means" because destruction of lives and property has followed the activities of the Nationalists. However the goal is worth the sacrifice and it is to be hoped that the nationalists carry out their ideals when they shall have mastered the military situation. Suffering must be expected: human affairs are that way. Every other nation has had its birth pains and China must endure its if it is to develop into the fullness of national life.

Manifest indeed is the relation of autonomy to this great movement. The agitation for autonomy has been one of the chief unifying agents of the Kuomintang party. It is united in its protest against foreign treaty domination. Tariff control is a slogan which has inspired the nationalist leaders and has secured support for them. It is one of their prime objectives. They feel that when they are able to secure and direct tariff revenues they will be able to establish their government as a strong central government and develop China for the Chinese.

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[23] *Public Ledger*, April 10, gives statement of single purchase of half million dollars worth of arms from Germany.

XI

Summary and Conclusions

What is the relation of tariff autonomy to the political situation in China, that is to say, what is its relation to the questions of

(1) the organization of the Chinese government;

(2) the foreign interests in China;

(3) the emergence and growth of nationalism.

No matter what form of government is set up, tariff autonomy will aid in its establishment. If the provinces insist on independence, tariff control by each unit will give it increased strength. If the north and the south are to be divided into separate republics, neither can become firmly entrenched without the control of the revenues. Or, if a strong central government is the solution of China's political ills, tariff autonomy is necessary for the carrying out of a successful fiscal policy.

A flexible tariff is needed to secure revenues for the government. China has been deprived of this in the past. Her tariff has not been flexible. In times of need she could but appeal to the powers. Their conferences have resulted in modifications but their activities have been tardy. The nature of the tariff schedule has been determined primarily by the interests of the powers rather than China.

With autonomy, these difficulties should be minimized. Give China the right to fix her own tariff rates and it will receive money to establish a strong central government to suppress those who would oppose it. Tariff autonomy is vital for the creation of a stable government.

Secondly, tariff control is just one of the foreign interests in China. To relinquish will concede a strategic advantage which rightfully belongs to China. The powers had stubbornly insisted on their policy of protecting their own interests by tariff control until the Conference of 1926. Then they expressed their willingto grant autonomy by 1929. The delay was meant to give time to industries in their own territories which had previously thrived on

an export trade made possible by the low Chinese tariffs, to make readjustments which would be necessary.

This concession will not seriously damage the foreign interests in China. Trade and investments will continue. The nature of these may change, the amount may even diminish, but in the long run, China will fix her tariff to permit of her best development with the aid of the powers. Treaty tariff is one of the first of the foreign privileges in China which will be surrendered.

Finally, what is the relation of autonomy to the nationalist movement? It is the essence of anti-foreignism and will inspire the activities of the nationalists until they gain their objective. They need tariff revenues to enable them to conquer and govern. Nothing short of united foreign opposition or of an internal catastrophe will interfere with their demand for tariff autonomy.

This concludes the discussion of the political aspect of tariff autonomy control in China. A more interesting and vital problem does not exist. One quarter of the population of the globe is entering into national and international life. It will exert an inestimable influence in shaping the future relations between the Orient and the Occident.

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